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**Town of
Guilderland
Albany County, New York**



Zoning Law

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ZONING*

Be it enacted by the town board of the Town of Guilderland as follows:

Local Law No. 1 of 1971, Being A Law Regulating and Restricting the Location, Construction, Alteration, Occupancy and Use of Buildings and Structures and the Use of Land in the Town of Guilderland and for Said Purposes, Dividing the Unincorporated Part of the Town into Zoning Districts.

Sec. I. Title and purposes.

A. *Title.* This [Local] Law shall be known and may be cited as "The Zoning Law of the Town of Guilderland".

B. *Purposes.* This [Local] Law is enacted for the purpose of promoting the health, safety, morals and general welfare of the people of the Town of Guilderland, to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public conveniences and necessities, and for such pur-

*Editor's note—This sub-part is derived from Local Law No. 1, 1971, adopted May 27, 1971.

Cross reference—Keeping swine, § 4-34 et seq.

State law reference—Zoning and planning, Town Law, § 261 et seq.

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poses to regulate the height, number of stories and size of buildings and other structures, percentage of lot occupancy, the size of yards and other open spaces, the density of population and the use of buildings, structures and land for trade, industry, residence or other purposes. It is hereby declared to be a specific intent and purpose of this Local Law to preserve wherever possible the natural beauty and ecology of streams, watercourses and bodies of water.

Sec. II. Definitions.

Except where specifically defined herein, all words shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number include the plural and words used in the plural number include the singular, unless the context clearly indicates the contrary.

The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. The word "lot" includes the word "plot" or "parcel". The word "person" includes an individual person, a firm, a corporation, a co-partnership and any other agency of voluntary action.

The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

Abandonment: The voluntary, absolute relinquishment, the giving up of a known right to which one is entitled, with the intention of permanently terminating or parting with such right. Abandonment depends upon the concurrence of two elements or factors:

- (a) The intention to relinquish, to permanently give up a known right to continue a nonconforming use, and
- (b) The cessation of such nonconforming use, an overt act or failure to act, implying that the owner intends to permanently cease from putting the premises to the nonconforming use, or such other nonconforming use as may be permitted by this Local Law. Whenever a

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nonconforming use of a structure has been discontinued for a period of twelve months, such discontinuance shall constitute prima facie evidence that such use has been abandoned.

Accessory building: A building detached from and subordinate to a main building on the same lot and used for purposes customarily incidental to those of the main building.

Accessory use: A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Alteration: As applied to a building or structure, a change or rearrangement in the structural parts or existing facilities of such building or structure or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location to another.

Area, building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of patios, terraces and uncovered steps.

Attic: That space of [a] building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as one-half story in determining the permissible number of stories.

Auto-wrecking yard: The use of any area or portion of any lot or plot, whether inside or outside a building, for the temporary storage of automobiles awaiting dismantling, or the dismantled parts of automobiles, or for the dismantling, cutting, demolition and burning of automobiles.

Basement: That space of a building that is partly below grade and which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

Billboard-structural advertising: Any commercial outdoor sign, advertising medium, structure or device which adver-

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tises, directs, or calls attention to any business, article, substance or service, which is conducted, sold, or offered elsewhere than upon the lot on which such sign is situated and which is painted, printed, posted, or affixed to any building, billboard structure, wall, fence, railing, natural object or structure of any kind on real property or upon the ground itself.

Boarding House: Any dwelling in which more than four persons either individually or as families are housed or lodged for hire with or without meals. A rooming house or a furnished rooming house shall be deemed a boarding house.

Building: Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing, or enclosure of persons, animals or chattels.

Building, accessory: See "accessory building".

Building, detached: A building surrounded by open space on the same lot.

Building, front line: The base line of a vertical plane, parallel to the street line, and extending from one lot line to another, beyond which no portion of a building shall extend into the front yard. Side and rear lines shall be determined in the same manner.

Building group: A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

Building height: See "height of building".

Building, principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Building, semi-detached: A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.

Bulk: A term used to describe the size, volume, area, and shape of buildings and structures, and the physical relation-

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ship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building; and all open spaces required in connection with a building, other structure, or tract of land.

Cellar: That space of a building having more than half of its depth, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

Club, membership: An organization catering exclusively to members and their guests or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities, except as required generally for the membership and purposes of such club.

Commercial vehicle: A vehicle having a registered carrying or hauling capacity of one ton or more, a vehicle especially constructed or equipped for the purpose of towing or removing wrecked or disabled vehicles and commonly called a "tow truck" or "wrecker" and all types of vehicular construction equipment used in the conduct of a trade or business.

Community pole: A sign owned and maintained by the town board or by a group of businessmen as approved by the town board, and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the community.

Contiguous single-family dwellings: A one-family dwelling contiguous to one or more one-family dwellings separated by a party or common wall.

Contractor's yard: Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery or vehicles, or parts thereof, which are in active use by a construction contractor.

Coverage: That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

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Designed local shopping center: A designed shopping center having a gross aggregate floor area of less than 150,000 square feet.

Designed neighborhood shopping center: A designed shopping center having a gross aggregate floor area of not less than 150,000 square feet or more than 400,000 square feet.

Designed regional shopping center: A designed shopping center having a gross aggregate floor area of not less than 400,000 square feet.

Designed shopping center: The division of a single structure or the grouping of buildings which will constitute a convenient, effective shopping center designed as a planned and harmonious unit.

Development: The utilization of a lot or tract of land for two or more uses.

District, more restricted or less restricted: In the following list each district shall be deemed to be more restricted than the districts which follow it: R-20, R-15, R-10, A, B-1, B-2, COR, I.

Drive-in-movie theater: An open lot or part thereof with appurtenant facilities devoted primarily to the showing of moving pictures on a paid admission basis to patrons seated in automobiles or on outdoor seats.

Dump: A lot or land used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

Dwelling: A building designed or used principally as the living quarters for one or more families. The terms "dwelling", "one-family dwelling", "two-family dwelling", "multi-family dwelling" or "dwelling group", shall not be deemed to include [a] motel, hotel, rooming house or other accommodations used for more or less transient occupancy. (See "residence")

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Dwelling, one-family: A building containing one dwelling unit only.

Dwelling, two-family: A building containing two dwelling units.

Dwelling, multi-family or multiple: A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other.

Dwelling group: A group of three or more, but not over nine, attached single or two-family dwellings with party walls between.

Dwelling, private: A dwelling occupied exclusively for residence purposes by one or two families and having not more than four boarders, roomers, or lodgers in one or both house-keeping units.

Dwelling unit: A building or portion thereof providing complete housekeeping facilities for one family.

Family: A "family" consists of:

- (a) One person or two or more persons related by blood, marriage or adoption; or,
- (b) Not more than five persons not necessarily related by blood, marriage or adoption;

and, in addition, any domestic servants or gratuitous guests, who live together in a single dwelling unit and maintain a common household.

Farm, hog or swine: A farm used for the raising of more than 10 hogs, or raising any number of hogs for the purpose of sale, barter or exchange, the principal source of food of which is garbage transported to the farm from other locations.

Finished grade: The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade, in computing height of buildings and other structures or for other purposes,

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shall be the average elevation of all finished grade elevation around the periphery of the building, except that this average shall not exceed one-half of the floor to ceiling height.

Floor area: The aggregate sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior walls or from the center lines of walls separating two buildings. In particular, the "floor area" of a building or buildings shall include:

- (a) Basement space;
- (b) Elevator shafts and stairwells at each floor;
- (c) Floor space for mechanical equipment, with structural headroom of seven feet and six inches or more;
- (d) Penthouses;
- (e) Attic space, whether or not a floor has actually been laid, providing structural head room of seven feet and six inches or more;
- (f) Interior balconies and mezzanines;
- (g) Enclosed porches;
- (h) Accessory uses, not including space for accessory off-street parking.

The "floor area" of a building shall not include:

- (a) Cellar space, except that cellar space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking space and accessory off-street loading berths;
- (b) Elevator and stair bulkheads, accessory water tanks and cooling towers;
- (c) Floor space used for mechanical equipment, with structural headroom of less than seven feet and six inches;
- (d) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet and six inches;

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- (e) Uncovered steps, exterior fire escapes;
- (f) Terraces, breezeways, open porches and outside balconies and open spaces;
- (g) [Reserved];*
- (h) Accessory off-street loading berths.

Floor area ratio: The ratio between the total floor space of the building or buildings and the total lot area.

Garage, private: An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises.

Garage, public: Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles, excepting however the equipping or installation of parts where such installation is incidental to the retail sale of such parts or equipment.

Gasoline filling station: An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.

Height of building: The vertical distance measured from the average finished grade along the wall of the building (or adjacent to the side of the structure) to the highest point of such building or structure.

*Editor's note—Subparagraph (g) was inadvertently omitted. Therefore, the editor has reserved that subparagraph for future use.

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Home occupation: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character of the exterior thereof, nor occupy more than twenty-five per cent (25%) of the area of the main floor of the dwelling and does not involve the manufacturing, production or display of articles or commodities for sale on the premises, nor the rendering of any personal service except those normally performed on a consultation basis by clergymen, doctors, lawyers and similar professions.

Hospital: Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

Hotel: A building or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms.

House trailer: See "mobile dwelling".

Junkyard: A lot, piece or parcel of land or structure or part thereof, used for the collecting, storage or sale of waste paper, rags, scrap metal, building materials or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof, including a lot on which one or more vehicles not in running condition or unregistered is stored or parked.

Kennel: Any place at which there are kept three or more dogs more than six months of age, or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

Line, street: The dividing line between the street or highway and the abutting real properties.

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Lot: A defined portion or parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same.

Lot, corner: A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees.

Lot coverage: See "coverage".

Lot, depth of: The mean distance from the front to the rear line.

Lot frontage: A lot line which is coincident with a street line.

Lot lines: The lines bounding a lot as defined herein.

Lot, through: A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

Lot width: The horizontal distance between the side lot lines measured at right angles to the lot depths at a point midway between the front and rear lot lines; or the width of a lot measured along the rear line of the required front yard.

Mobile dwelling: A vehicle which is used or designed to be used for living or sleeping purposes and which is customarily standing on wheels or rigid supports, whether propelled by its own power or power of another vehicle to which it is attached.

Motel: A building or group of buildings whether attached or detached containing for hire individual living and sleeping accommodations each of which is considered a unit, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

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Nonconforming bulk: That part of a building, other structure or tract of land which does not conform to one or more of the applicable bulk regulations of this Local Law, either following its effective date [adopted May 25, 1971, to become effective as provided by law] or as a result of subsequent amendment thereto.

Nursery school: Any place, however designated, operated for the purpose of providing daytime care or instruction for two or more children from two to five years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries, and day care centers.

Nursing or convalescent home: A building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

Office building: A structure the principal use of which shall be the accommodation of offices for administrative, governmental, public utility, professional or sales activity including retail stores, shops, restaurants and cafes.

Parking space unit: An off-street space available for the parking of one motor vehicle and having an area of not less than two hundred square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street, highway or alley.

Premises: A lot, together with all the buildings and uses thereon.

Residence, residential: A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. "Residence," therefore, includes all one-family, multi-family, boarding, fraternity and sorority houses. However, "residences" shall not include the following:

- (a) Transient accommodations, such as hotels, motels, and hospitals; or,
- (b) That part of a building containing both residences and other uses which is used for any nonresidential uses, except accessory uses for residences.

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Riding academy: Any establishment where horses are kept for riding, driving or stabling for compensation.

Right-of-way: The property of a circulatory facility. (See "street width").

Road stand: A light structure with a roof, either attached to the ground or movable, intended for the sale of local produce to the general public.

Setback: The distance in feet from the street line to the principal building on a lot.

Sign: Any structure or part thereof, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or which is in the nature of, an announcement, direction or advertisement. A "sign" includes a billboard, neon tube, fluorescent tube or other artificial light or string of lights, outlining or hung upon any part of a building or lot for the purposes mentioned above, but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement or event which is temporary in nature.

Sign, advertising: Means a "sign" which directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than on the premises and only incidentally on the premises if at all.

Sign area: The area within the shortest lines that can be drawn around the outside perimeter of a sign including all decorations and lights, but excluding the supports if they are not used for advertising purposes. All faces of the sign shall be counted in computing the area. Any neon tube, string of lights, or similar device shall be deemed to have minimum dimensions of one foot.

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Sign, business: Means a "sign" which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign relating to the property on which it is displayed shall be deemed a "business sign".

Sign, directly illuminated: A sign which incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent material or electricity of radio-activated or gaseous material or substance.

Sign, flashing: An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

Sign, illuminated: Means a "sign" designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

Sign, indirectly illuminated: A sign illuminated with an artificial light which is separated from or is not an intrinsic part of the sign itself.

Sign, representational: Any three-dimensional sign which is built so as to physically represent the object advertised.

Single ownership: Possession of land under single or unified control, whether by sole, joint, common or other ownership, or by lease having a term of not less than 30 years, regardless of any division of such land into parcels for the purpose of financing.

Story: That portion of a building which is between one floor level and the next higher floor level or roof, provided however that where a mezzanine floor area exceeds one-third of the area of the floor immediately below, the area above and below such mezzanine floor shall be deemed to be a separate story, and further provided that a basement shall be deemed to be a story when its ceiling is six feet or more above the average established curb level or finished grade of the ground adjoining the building, and further provided that a cellar shall not be deemed to be a story and an attic shall not be deemed to be a story if unfinished and without human occupancy.

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Story, half: That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half the floor-to-ceiling height of the story below.

Street: An existing public way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by all appropriate official agencies.

Street width: The width of the right-of-way or the distance between property lines on opposite sides of a street.

Structure: A static construction of building materials, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings (whether mobile or stationary at the time), and swimming pools, including their appurtenant enclosure fences.

Swimming pool: Any outdoor water pool intended for bathing or swimming purposes made of concrete, masonry, metal or other impervious material maintained in a residential district which will cause the retaining of water to a greater depth than eighteen inches and having a plane surface area of water greater than one hundred square feet.

Theater, outdoor drive-in: An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or in outdoor seats.

Top soil: The surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation. The "A" horizon of the soil solum.

Tourist home: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

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Town house: A building consisting of a series of one-family attached dwelling units having common party walls between each dwelling unit.

Trailer, house: See "mobile dwelling".

Use: This term is employed in referring to:

- (a) The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied;
- (b) Any occupation, business activity, or operation conducted (or intended to be conducted) in a building or other structure or on land;

The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use or use requiring special use permit.

Used automobile sales: See "used car lot".

Used car lot: Any place outside a building where two or more used motor vehicles in operating condition are offered for sale or are displayed.

Way: A thoroughfare, however designated, permanently established for passage of persons or vehicles.

Yard, front: A yard extending along the full length of the front lot line between the side lot lines.

Yard, rear: A yard extending along the full length of the rear lot line, between the side lot lines.

Yard, required: That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

Yard, side: A yard situated between the building and the side line of a lot and extending from the front yard rear line

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(or from the front lot line, if there is on required front yard) to the rear yard front line (or rear lot line). (L.L. No. 3, 1972. §§ 1, 2)

Sec. III. District classification, occupancy limitations, boundaries.

A. *District classification; occupancy limitations:* For the purposes of this Local Law, the Town of Guilderland is hereby divided into the following district classifications:

A Agriculture

R-20 Residence

R-15 Residence

R-10 Residence

R-PO Residential-Professional Office

R-NB Residential-Neighborhood Business

B-1 Local Business

B-2 General Business

COR Conference-Office Research

I Industrial

In agriculture and residence zones, occupancy shall be limited as follows:

A : One family per 86,500 square feet.

R-20 : One family per 20,000 square feet.

R-15 : One family per 15,000 square feet.

R-10 : One family per 10,000 square feet.

R-PO : One family per 4,800 square feet.

R-NB : One family per 7,500 square feet.

B. *Zoning map:* Attached hereto and made a part of this Local Law is a map designated "Official Zoning Map of the Town of Guilderland", together with descriptions of the sev-Supp. No. 7

eral zoning districts into which the Town of Guilderland is hereby divided pursuant to this Local Law, which descriptions and map, together with everything shown thereon and all amendments thereto, are hereby adopted and declared to be an appurtenant part of the Local Law.*

C. Interpretation of district boundaries: Where district boundaries are indicated as following streets, highways, railroad lines, utility lines or watercourses, such boundaries shall be deemed to be the center line thereof unless said lines, banks or other portions thereof are indicated. Such boundaries shall be deemed to be automatically moved where such street, highway, railroad line or utility line is moved, provided such relocation shall not exceed 50 feet from its original location. (L.L. No. 3, 1978, § 1)

Sec. IV. Use regulations.

A. Permitted uses: No land, building, structure or premises or part thereof shall be erected, moved, altered, or used except for one or more of the uses permitted in the district in which such land, building, structure or premises is located. Such permitted uses are set forth in the following schedule. Such uses are permitted subject to the conditions indicated by the following symbols:

*Editor's note—The zoning map referred to in this subsection is not included in this compilation of local laws, but is on file in the office of the town clerk.

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 P—Use permitted by right
 X—Use permitted only upon special use permit.
 *—Use permitted subject to site plan review by the planning board as provided in section VIII B.

Residential Uses:

	A	R-20	R-15	R-10	R-PO	R-NB	B-1	B-2	COR	1
Detached one-family dwellings -----	P	P	P	P	P	P	.	.	.	.
Two-family dwellings -----	X	X	X	X	X	X	.	.	.	.
Multiple dwellings (Section VI L) -----	.	.	X*	.	.	.	.	.	.	.
Boardinghouse -----	.	X	X	.	X	.	.	.	.	.
Dwellings with professional office (Section VI X) -----	.	.	.	.	X	X	.	.	.	.
Dwellings with professional office, personal service and/or mail-order sales (Section VI Y) -----	.	.	.	.	.	X	.	.	.	.
All other residential uses -----	.	X*	X*	X*	.	.	.	.	.	.

General Uses:

Agriculture not including the keeping of fowl or farm animals -----	P	P	P	P	P	P	P	P	P	X	P
Agriculture including the keeping of fowl and farm animals -----	P	X	X	X	X	X	X	X	X	.	X
Agriculture—Swine or hog farms -----	X
Cemetery -----	X	X	X	X	X	X

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A R-20 R-15 R-10 R-PO R-NB B-1 B-2 COR 1

General Uses (cont'd):

Church, other places of worship or religious in- struction, parish house rectory, convent in con- nection with school	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Crematory	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Cultural facility (art or exhibit gallery, museum, community building auditorium)	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Golf course, country club, athletic field	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Hospital, nursing or convalescent home, sani- tarium	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Institutional or philanthropic use	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Municipal buildings, libraries, and fire stations	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Private and membership clubs other than golf courses and country clubs	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Private, public or parochial schools	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Public recreation buildings and grounds	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Public utility buildings servicing neighborhood, excluding offices and storage	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
Public utility buildings including offices and storage	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*
University, college, seminary, convent	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*	X* X* X* X* X* X* X* X*

Accessory Uses:

Home occupation	P	P	P	P	P	P	P
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Accessory Uses (cont'd):

Supp. No. 9

Accessory uses customarily incidental to any of the uses mentioned herein, and on the same lot
 Accessory uses customarily incidental to any of the the uses mentioned herein and not on the same lot
 Stables for horses for noncommercial purposes
 Swimming pool

	A	R-20	R-15	R-10	R-PO	R-NB	B-1	B-2	COR	1
<i>Business Uses:</i>										
Airport	X*	.	.	.	.	.	.	.	X*	X*
Air freight pickup station	.	.	.	.	.	.	.	.	.	P*
Auctions	X	.	.	.	.	X	.	X	.	.
Automobile sales and service	.	.	.	.	.	.	.	X	.	X
Banks	.	.	.	.	.	X	.	X	X	P
Bar or nightclub	.	.	.	.	.	.	.	X	.	.
Bowling alley	.	.	.	.	.	.	.	X	.	.
Car washing station	.	.	.	.	.	.	.	X	.	X
Commercial parking lot	.	.	.	.	.	.	.	X	.	P
Dance hall, skating rink, billiard hall	.	.	.	.	.	.	.	X	.	.
Designed local shopping center	.	.	.	.	.	.	.	X*	.	.
Designed neighborhood or regional shopping center	X*	.	.
Drive-in movie theater	X*	.	X

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<i>Business Uses (cont'd): Office, professional</i>	<i>A</i>	<i>R-20</i>	<i>R-15</i>	<i>R-10</i>	<i>R-PO</i>	<i>R-NB</i>	<i>B-1</i>	<i>B-2</i>	<i>COR</i>	<i>1</i>
Equipment rental, sale	X	X	X
Funeral home	X	X	.	.
Gasoline filling station	X	.	X
Garden center and nursery	X	.	.	.	.	.	X	X	P	P
Hotel and conference center	X*	.
Mail-order sales	X	X	X	X	X
Motel	X	.	.	.	.	X	X	X	X	.
Newspaper office, printing shop	X	X	X	X
Office building—Highrise	X*	X*	X*
Office, general	X	X	X	X
Office, professional	X	X	X	X
Personal service (barber, beauty salon, shoe repair)	X	X	X	.	X
Public garage	X	.	X
Radio, television and other electrical transmission stations and towers	X	.	.	.	.	.	.	X	X	X
Restaurant	X	X	X
Restaurant, with drive-up auto service	X	.	X
Retail stores, shops	X	.	X
Retail business or service, not specifically mentioned herein	X	.	X
Riding academy, stables	X	X	.	X
School conducted for profit	X	.	X

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Business Uses (cont'd):

	A	R-20	R-15	R-10	R-PO	R-NB	B-1	B-2	COR	I
Self-service laundry	X	X	.	.
Theater (excluding drive-in), concert hall, public assembly	.	.	.	.	.	.	X	X	X	.
Veterinarian office, animal hospital	X	.	.	.	.	.	X*	X*	.	.
Kennel	X	.	.	.	.	.	.	.	.	.
Wholesale business or service not specifically mentioned herein	.	.	.	.	.	.	.	X	.	X

Industrial Uses:

Soil extractive operations, soil mining	X*	.	.	.	.	.	.	.	.	.
Fuel, gasoline, oil storage	.	.	.	.	.	.	.	.	.	X
Laundry, dry cleaning plant	.	.	.	.	.	.	.	.	.	X
Manufacturing, fabrication, extraction, assembly, warehousing and other handling of materials and excluding prohibited uses listed below	X
Research, development or engineering laboratories	X

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B. Prohibited uses: The uses hereinafter enumerated are expressly prohibited. This prohibition shall extend to any other use which in the opinion of the zoning board of appeals or planning board, as the case may be, is or is likely to be noxious or offensive by reason of the emission of odor, smoke, toxic or noisome fumes, radiation, gas, noise, vibration or excessive light or any combination thereof or is likely to be harmful or injurious to public health, safety or the general welfare:

Acetylene gas manufacture for commercial purposes;

Ammonia, chlorine or bleaching powder manufacture;

Arsenal;

Asphalt manufacture or refining;

Auto wrecking;

Blast furnace, not including cupola or converter furnaces use in foundries and in which no wood is used as fuel;

Boiler shops, structural steel fabricating shops, metal working shops, which operate reciprocating hammers or chisels or other noise producing electric or pneumatic tools within 100 feet of any boundary line of the premises and outside of any masonry buildings;

Brewing and aluminum powder manufacture;

Carbon, lampblack, shoe blacking, graphite, or stone polish manufacture;

Celluloid and other cellulose products manufacture;

Cement manufacture;

Coal tar products manufacture;

Creosote treatment or manufacture;

Disinfectant and insecticide manufacture;

Distillation of coal, wood or bones;

Dump, unless operated or controlled by the municipality;

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- Excelsior and fibre manufacture;
- Explosives, fireworks, or match manufacture, assembling, or storage in bulk, except the manufacture, assembling, and storage in bulk of safety matches in book form;
- Fat rendering;
- Fertilizer manufacture or potash refining;
- Fish smoking or curing;
- Glue, size, or gelatin manufacture or processing involving recovery from fish or animal offal;
- Incinerator, unless operated by the municipality;
- Junkyard;
- Lime, gypsum, cement, plaster, or plaster of paris manufacture, except the mixing of plaster;
- Linoleum or oil cloth manufacture;
- Ore reduction or the smelting of iron, copper, tin, zinc, or lead;
- Paint, oil, varnish, turpentine, shellac, or enamel manufacture, except the mixing of wet paints;
- Perfume and extract manufacture;
- Petroleum refining;
- Poisons manufacture: Fumigates, carbon disulphide, hydrocyanic acid, acid, ethyl, stomach poisons, arsenate of lead, arsenate of calcium, hellabore and paris green, contact insecticides, lime, sulphur, nicotine, kerosene emulsions;
- Printing ink manufacture;
- Radium extraction,
- Storage, coloring, curing, dressing, or tanning of raw or green salted hides or skins;
- Rubber caoutchouc, or gutta percha manufacture from crude or scrap material, except in connection with a rubber products manufacture plant;

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Salt works;

Sand paper and emery cloth manufacture;

Slaughtering of animals, except for immediate consumption on premises or immediate retail sale;

Soap, soda ash, or washing compound manufacture, except products not containing caustic soda;

Starch, glucose, or dextrine manufacture ;

Stockyards;

Sulphurous, sulphuric, nitric, picric, or hydrochloric acid or other corrosive or offensive acid manufacture, or their use or storage, except on a limited scale as accessory to a permitted industry;

Tallow, grease, lard, or candle manufacture or refining;

Tar distillation or the manufacture of aniline dyes;

Tar roofing or waterproofing manufacture, except where the tar or asphalt is treated at a temperature under 100 degrees Fahrenheit;

Tobacco processing, exclusive of cigar or cigarette manufacture;

Vinegar, pickle or sauerkraut manufacture in bulk;

Wool pulling or scouring, except in connection with a woolen mill;

Yeast manufacture.

(L.L. No. 3, 1972, § 3; L.L. No. 2, 1973, § 1; L.L. No. 3, 1978, § 2; L.L. No. 4, 1978, § 1; L.L. No. 3, 1979, § 1)

Sec. V. Area and bulk regulations, density control.

A. Purpose: In order to provide adequate open spaces for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to lessen congestion on streets, no building or

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premises shall be erected, altered or used except in accordance with the standards set forth in this section.

B. *Density control schedule (areas and bulk schedule)*; The following schedule of density control regulations is hereby adopted and declared to be a part of this Local Law and is hereinafter referred to as the "Density Control Schedule."

TOWN OF GUILDERLAND DENSITY CONTROL SCHEDULE

(Area and Bulk Schedule)

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	Minimum Lot Size		Minimum Yard Dimensions				Maximum lot coverage including accessory buildings		Maximum Building Height		
	Residential		Nonresidential				Front	Side	Rear	Stories	Feet
	Area per Family (sq. ft.)	Width of Building Line	Area (sq. ft.)	Width at Building Line	Front	Side					
A*	86,500(a,b)	200'	86,500(f)	200'	50'(f)	30'(f)	50'(f)	25%(e)	2½(f)	35(f)	
R-20*	20,000(a,b)	125'	20,000	125'	35'	20'	50'	30(e)	2½	35	
R-15*	15,000(a,b)	100'	15,000	100'	35'	15'	35'	30(e)	2½(a)	35	
R-10*	10,000(a,b)	80'	10,000	100'	35'	12.5'	30'	30(e)	2½(a)	35	
R-PO*	4,800(b)	40'	4,800	40'	35'	(i)	35'	30(e)	2½(a)	35	
R-NB*	7,500(b)	50'	7,500	50'	35'	(i)	35'	30(e)	2½(a)	35	
B-1	—	—	10,000(g)	100'(h)	45'(f)	(c,f)	25'(f)	35(e)	3(f)	35(f)	
B-2	—	—	20,000	100'	45'(d,f)	(c,d,f)	25'(d,f)	40(e)	3(d,f)	35(d,f)	
COR	—	—	4 acres	300'	100'(d,f)	25'(d,f)	50'(d,f)	25(e)	3(d,f)	35(d,f)	
I	—	—	40,000	150'	50'(d)	25'(d)	50'(d)	50(e)	3(d)	35(d)	

* Minimum floor area shall be 884 sq. ft. for single-family dwelling units, 720 sq. ft. average for multifamily dwelling units in no event less than 550 sq. ft. for any dwelling unit. In R-PO and R-NB districts minimum floor area per dwelling unit shall be 550 sq. ft.

(a) See Cluster Development Regulations VI P and Multiple Dwelling Regulations VI L where applicable.

- (b) Twice the area with at least 50% greater width at the building front line shall be required for two-family dwellings.
- (c) None required except where abutting residential property; but, if provided, it shall be at least 12.5 feet. If abutting residential zone side yard shall be at least 30 feet.
- (d) See Section VI S for special provisions for office buildings.
- (e) No structure shall be erected within 100 feet of the water's edge of any body of water except man-made farm ponds not fed or drained by a running stream. No structure shall be erected or shall encroach upon any area lying between any stream or watercourse and a line running parallel thereto and located at grade level at the end of a line perpendicular thereto forming an angle of repose of 12 degrees at the toe of the slope of such stream or watercourse, except that where such angle of repose is less than 12 degrees said parallel line shall be 100 feet from the toe of the slope of such stream or watercourse. No building, mobile dwelling or structure designed for human habitation shall be erected or placed within 30 feet of the line so determined.
- (f) See Section VI H for special provisions for motels.
- (g) Twenty thousand (20,000) square feet for individually developed lot.
- (h) One hundred twenty-five (125) feet for individually developed lot.
- (i) Fifteen (15) feet total.

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C. *Corner lots*: On a corner lot in a residential district, only one street side shall be considered a front yard. The other street side shall have a minimum yard of not less than twenty feet in depth and the rear of the yard shall have a minimum depth ten feet less than that required by the density control schedule for the district in which the lot is located.

D. *Projections into required yards*: No portion of a building shall extend beyond its front line, side line or rear line into any required yard, side yard or rear yard, except as follows:

- (1) Open fire escape: Four feet into side or rear yards;
- (2) Awning or movable canopy: Six feet into any yard;
- (3) Cornice or eave or other similar architectural feature: Three feet into any yard;
- (4) Uncovered porch or terrace: Ten feet into any yard.

Accessory uses not enclosed in a building may be located in a rear yard in accordance with Section VI A (5), except that accessory buildings may be erected in a front yard in agricultural districts on premises where no dwelling house or part thereof is situated within 150 feet of a highway, provided that such building shall not be placed within 30 feet of a highway.

E. *Height exceptions*: The height limitations of this Local Law shall not apply to:

- (1) Churches, schools, hospitals, water towers and other public and semi-public buildings provided that for each foot by which the height permitted in the district is exceeded, the side, front, and rear yards required in the district shall be each increased an additional foot.
- (2) Church spires, belfries, cupolas and domes, not for human occupancy, monuments, observation towers, transmission towers, chimneys, smokestacks, derricks, flag poles, radio towers, masts and aerials, ventilators, skylights, water tanks and necessary appurtenances usu-

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ally carried above roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.

F. Side yards for semi-detached or town houses: Side yards for semi-detached or town houses shall be required at the ends of the total structure only.

G. Distance between principal buildings on same lot: No detached principal building shall be closer to any other principal building on the same lot than the average heights of said buildings.

H. Measurement of yard dimensions: Measurements of minimum yard dimensions shall be taken from [the] foundation. (L.L. No. 3, 1972, § 4; L.L. No. 2, 1973, § 2; L.L. No. 2, 1976, § 1; L.L. No. 3, 1978, § 3; L.L. No. 3, 1979, § 2)

Sec. VI. Supplementary regulations.

A. General Provisions.

(1) *Home occupations:* A home occupation may be conducted in districts specified in Section IV A, provided that the same is conducted within the dwelling house occupied as the private family residence of the person carrying on such activity and that not more than one assistant may be employed, that no commodities are sold and delivered on or from the premises, that not more than one sign not exceeding two square feet in area identifying the business is displayed on the premises, that there shall be no exterior storage or materials or equipment or parking of commercial vehicles used in such business and that the exterior of the structure and grounds shall not change from a residential character.

(2) *Excavations and soil disturbance:* No person shall excavate, remove topsoil or alter topography, for any purpose other than the construction of a permitted building or structure or part thereof or an appurtenant driveway or walk, without a permit therefor issued

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by the zoning board of appeals. No permit shall be issued for the construction of a building or structure for which excavation, topsoil removal or topographical alteration is required until a permit shall have been issued as authorized by this section; provided, however, that where such construction is pursuant to a subdivision plan approved by the planning board of the Town of Guilderland such permit for excavation, topsoil removal or topographical alteration shall be issued by the said planning board.

- (a) No permit for excavation, soil removal or topography alteration shall be issued except upon the submission of evidence satisfactory to the issuing authority and upon its finding and determination based upon such evidence that the proposed excavation, soil removal or topographical alteration will not cause erosion or otherwise disturb or adversely effect natural drainage, dunes, creeks or other bodies, sources or supplies of water, both surface and ground, adjacent or nearby flora, fauna, or other vegetation. In determining the sufficiency of evidence hereunder, proof of compliance with standards promulgated by the United States Department of Agriculture Soils Conservation Services and by the New York State Department of Environmental Conservation, or their successor agencies, and with subdivision regulations adopted by the planning board of the Town of Guilderland may be deemed evidence sufficient to support the issuance of a permit hereunder.
- (b) No permit for excavation, soil removal or topography alteration for the purpose of constructing a privately owned water or sewerage system shall be issued except upon the submission of evidence satisfactory to the issuing authority and upon its own finding and determination based upon such evidence that the proposed construction complies with all standards and requirements appertaining

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thereto promulgated by the New York State Department of Health and by the New York State Department of Environmental Conservation, or their successor agencies. The evidence so submitted shall be in addition to that evidence required by subsection (a) hereof.

- (c) No permit shall be issued hereunder affecting any lot, piece or parcel of land designated as an historic site by the United States Government, State of New York or any municipality or agency thereof unless such historic site is shown on a subdivision map or plan duly approved by the planning board of the Town of Guilderland showing provision for the preservation thereof.
- (d) No person owning land upon which any excavation has been made and no person who has excavated or cause the excavation of any lands shall permit any such excavation or any part thereof unoccupied by any building or structure or part thereof to remain unfilled to grade level and unseeded after the expiration of the permit period. No owner or occupier of land from which topsoil has been removed and no person who has removed or caused the removal of such topsoil shall allow the area from which topsoil has been removed to remain uncovered. Such area shall be covered by other soil or fill and shall be seeded so as to provide an effective cover crop within the first growing season following such soil removal. Any person to whom this subsection applies who fails to comply with any of the provisions of this subsection shall be guilty of a violation thereof and shall be subject to punishment as provided in section XI(C) of the Zoning Law of the Town of Guilderland.

(3) *Activity standards:* Activities resulting in any of the following are prohibited:

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- (a) Offensive or objectional vibration, odor or glare noticeable at or beyond the property line;
 - (b) Fire, explosion, radiation or other phenomena hazardous to persons or adjoining property;
 - (c) Discharge or liquid or solid waste or other contaminating material into any stream or body of water or into any public or private disposal system or into the ground;
 - (d) Accumulation or storage of material likely to result in the breeding of vermin or otherwise endangering public health;
 - (e) Emission of smoke, fly ash or dust hazardous to health, animal or plant life or injurious to property.
- (4) *Planned new streets:* After the planned right-of-way line for future streets, for future extensions of existing streets or for future street widening is established on the official map, if any, buildings and structures shall be set back from such line as though it were a street line.
- (5) *Accessory buildings and uses:* Accessory buildings not attached to principal buildings shall be located not closer to the principal building than 12 feet or a distance equal to the height of each accessory building, whichever is greater. Minimum distances between accessory buildings shall be 10 feet. No accessory building in a residential district shall have a height in excess of 15 feet except that farm buildings may not exceed 35 feet in height. No accessory building or use shall be located less than 40 feet from any front lot line nor less than 5 feet from side or rear lot line except upon special use permit issued by the zoning board of appeals.
- (6) *Fences and walls:* No fence, wall, hedge or other planting or structure more than 3 1/2 feet in height shall be erected, placed or maintained on a corner lot within

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the triangular area formed by the intersecting street line and a straight line joining said street line at points which are 35 feet distant from the point of intersection measured along said street lines. Except as herein provided, a wall or fence of substantially equal quality and appearance on either side may be erected within any yard provided, however, that no fence in excess of 6 feet in height shall be erected except upon permit granted by the zoning board of appeals, which, upon application therefor, shall consider whether the proposed fence will interfere with or impair the use of the light or air enjoyed by the abutting properties, the necessity of such a fence to protect the property to be enclosed thereby or the abutting properties, the character of the abutting properties and the existence and the height and nature of other fences in the vicinity. A fence erected as an appurtenance to a swimming pool and as an enclosure thereof shall comply with the additional provisions of subdivision Q of this section.

- (7) *Fences between adjoining districts:* Where a lot in a B-1, B-2, COR or I District abuts a lot in a residence district or an R-PO District or an R-NB District, a visual screen not less than 6 feet in height, which may be composed of a wall, fence, compact evergreen hedge or such other organic substance or material as may be approved by the zoning board of appeals, shall be erected along such abutting lot line. Where a lot in an R-PO District or an R-NB District on which is provided on-site customer parking abuts a lot in an R-20, R-15 or R-10 District, the screening requirement above provided shall apply.
- (8) *Agricultural uses:* All ordinary, customary and usual agricultural activities are permitted in agricultural zones, including the erection and use of buildings and structures customarily used in connection with and reasonably necessary to the conduct of such activities, which activities shall include the processing, packag-

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ing, warehousing and storage of agricultural products; provided, however, that the erection and maintenance of slaughterhouses, rendering plants, fertilizer plants and canneries is expressly prohibited and further provided that the keeping of swine and the disposal of offal and garbage shall be in accordance with the provisions of the Town of Guilderland ordinance entitled, "An Ordinance Controlling, Regulating and Restricting the Keeping of Swine within the Town of Guilderland, Albany County, New York", adopted June 19, 1962. The unenclosed storage of manure or areas for storage of dead fowl, animal or other odor or dust producing substance or use shall not be permitted within 100 feet of a property line or 125 feet of a public street right-of-way. Stables and buildings for the housing of fowl or farm animals shall not be located in the required front yard nor within 100 feet of a property line.

B. *Off-street parking and loading regulations.* In all districts off-street automobile parking spaces and truck loading areas for the various permitted uses shall be required at the time any of the main building or structures for such uses are constructed or altered as follows:

- (1) *Off-street automobile parking space units:* The minimum number of off-street parking space units is determined as follows:
 - (a) Office, Business and Commercial Uses:

For retail business or service, bank or post office, one parking space unit for each 100 square feet of floor area plus one for each proprietor and one for each employee, provided, however, that the zoning board of appeals may in its discretion exclude from the calculation of such parking space unit requirements floor area used exclusively for the storage or warehousing of merchandise held for retail sale, where in the opinion of such zoning board of appeals the volume of motor vehicle traf-

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fic generated by or resulting from the use of such floor area for such storage or warehousing warrants the same.

For a designed local shopping center, one parking space unit for each 250 square feet of floor area.

For a designed neighborhood shopping center, one parking space unit for each 200 square feet of floor area.

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For a designed regional shopping center, one parking space unit for each 150 square feet of floor area.

For funeral home, two spaces for each 50 square feet of floor area up to 500 square feet plus one additional space for each 100 square feet or fraction thereof in excess of 500 square feet.

For roadside stands, five spaces per stand plus one space for each 100 square feet of floor area.

For restaurants, one space for each four seats plus one space for every four employees.

For public utility office, one space for each two employees.

For auto and equipment sales and service establishments, gas stations and wholesale establishments, one space for each 200 square feet of floor space and one space for every four employees.

For motels, one space for each bedroom and one space for each owner or manager and one space for every four employees.

Spaces in municipal parking lots, where provided, may be credited toward the parking requirements for the foregoing uses, provided that:

1. Such spaces are within 400 feet of the uses to be served;
2. The parking needs of existing facilities (within 400 feet and computed on the same basis as for new facilities) are satisfied and only excess capacity is used for this purpose; and
3. A special permit for such use is obtained from the zoning board of appeals.

(b) Conference-Office-Research District Uses:

For offices, highrise or garden type, one space for each two employees; one visitor parking space

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for every 400 square feet floor space; one space for each 200 square feet floor space in retail store use within the office building.

For hotel, same as for motel plus one space for each 200 square feet floor space for exhibit purpose.

For research and development laboratories, one space for each two employees, one visitor space for every 600 square feet floor space.

In a COR district, required off-street parking spaces may be provided in a multi-story self-parking garage, subject to site plan approval by the town planning board.

(c) Industrial Uses:

One space for each two employees, each company vehicle and each custodian dwelling.

No off-street parking shall be permitted in [a] front yard except for visitors.

(d) Public and Semi-Public Uses:

For churches, one space for each four seats plus one for each clergyman and each two employees.

For [a] community building, one space for each four seats and for each 60 square feet of floor area and for each four employees.

For schools, one space for each four employees, including teachers, plus loading and unloading space for busses as established by the zoning board of appeals.

For clubs, one space for each two members and for each two employees.

(e) Recreational Uses:

For [a] stadium, one space for each four seats and for each four employees.

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(f) Residential Uses :

In all residential districts, external storage of commercial vehicles, industrial equipment and materials is prohibited. In such districts, external parking of commercial vehicles between the hours of 10:00 p.m. and 6:00 a.m. is prohibited except when such parking is incidental and reasonably necessary to the performance of service at the time of such parking.

For home occupation, one space for each employee. Where home occupation is authorized no off-site parking will be permitted.

For dwellings, one space for each dwelling unit, to be provided on a buildable portion of the lot.

For boardinghouse, one space for each bedroom.

For multifamily dwellings, three spaces for each two units.

(g) R-PO and R-NB District Uses :

For residential use, one space for each dwelling unit.

For professional and business use, one space for each principal or proprietor and one space for each employee plus two spaces for customer vehicles; provided, however, that the zoning board of appeals may, in its discretion, reduce such parking requirements to a minimum of not less than fifty per cent of the aggregate requirement for professional or business use.

Parking may be permitted within the front, rear and side setback areas as the zoning board of appeals by special use permit shall prescribe.

(h) For uses not listed herein, as established by the zoning board of appeals.

(2) *Calculation of required spaces:* In the case of combination of uses, the total requirements for off-street auto-

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mobile parking spaces shall be the sum of the requirements for the various uses, unless it is established that staggered hours of use would justify modification. Whenever a major fraction of a space is required, a full space shall be provided.

(3) *Dimensions for off-street automobile parking spaces:* Every such space provided shall be at least 10 feet wide and 20 feet long, and every space shall have direct and usable driveway access to a street or alley with minimum maneuver area between spaces as follows:

- (a) Parallel Curb Parking: Five feet end to end with 12-foot aisle width for one-directional flow and 24-foot aisle width for two-directional flow.
- (b) Thirty Degree Parking: Thirteen-foot aisle width for one-directional flow and 26-foot aisle width for two-directional flow.
- (c) Forty-five Degree Parking: Sixteen-foot aisle width for one-directional flow and 26-foot aisle width for two-directional flow.
- (d) Sixty Degree Parking: Twenty-one-foot aisle width for one-directional flow and 26-foot aisle width for two-directional flow.
- (e) Perpendicular Parking: Twenty-six foot aisle width for one-directional and two-directional flow.

(4) *Location of required spaces:*

- (a) In any residential district, required automobile parking spaces shall be provided on a portion of the same lot and shall not encroach on any required open area.
- (b) In business districts or industrial districts, such spaces shall be provided on the same lot, or not more than 400 feet therefrom. No open or enclosed parking area shall encroach on any required front yard or required open areas. Open parking areas

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may encroach on a required side or rear yard to within 3 feet of a property line.

- (c) No entrance and exit drives connecting the parking area and the street shall be permitted within 25 feet of the intersection of the public rights-of-way.

(5) *Required off-street truck loading areas:*

For permitted business and industrial uses, one berth for each 10,000 square feet to 25,000 square feet of floor area, and one additional berth for each additional 25,000 square feet of floor area, unless it is established that truck deliveries shall not exceed one vehicle per day.

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For funeral homes, one berth for each chapel.

For hotels, motels and vacation resorts, one berth for each floor area of 10,000 square feet to 25,000 square feet and one additional berth for each additional 25,000 square feet floor area to 100,000 square feet.

For office, business, and commercial uses, one berth for each 10,000 square feet to 25,000 square feet of floor area and one additional berth for each additional 25,000 square feet for floor area.

For manufacturing and permitted industrial uses, one berth for the first 10,000 square feet of floor area and one additional berth for each additional 40,000 square feet of floor area.

- (6) *Dimensions for off-street loading berths:* Each required loading berth (open or enclosed) shall have the following minimum dimensions: Thirty-five feet long, 12 feet wide and 14 feet high, except that berths for [a] funeral home may be 20 feet long, 10 feet wide and 8 feet high.
- (7) *Location of required berths:* All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Open off-street loading areas shall not encroach on any required front or side yard, access way or off-street parking area, except that in Business Districts off-street parking areas where they exist may be used for loading or unloading, provided that such spaces shall not be so used for more than three hours during the daily period that the establishment is open for business.

The location, number, size, and design of loading and unloading areas for nonresidential uses and the access ways thereto shall require the approval of the planning board prior to the issuance of a building permit or certificate of occupancy by the building and zoning administrator.

- (8) *Corner lots:* In all districts, except industrial districts, off-street parking spaces on corner lots shall be set back from side street line a distance of not less than 20 feet.
- (9) *Landscaping:* At least eight per cent of the area of the lot usable for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three or more spaces that abut a residential lot line, and any parking lot for more than 20 cars shall be screened by a six-foot high solid masonry wall, or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen from the adjoining property. All parking areas and landscaping shall be properly maintained thereafter in a sightly and well kept condition.

C. *Sign regulations.* No sign or other device for advertising purpose of any kind may be erected or established except as follows:

(1) *Residential districts:*

- (a) Permitted nonresidential uses and legal nonconforming nonresidential uses, but not including home occupations, places of worship, libraries, museums, social clubs or societies or day nurseries, may display not more than one sign or bulletin board pertaining to the use of property, having a total face area of not more than 12 square feet, and not projecting beyond the principal building of such use to which they are attached more than 12 inches, except that where such nonresidential uses are set back from property lines, such sign may be erected on the ground, provided that such ground signs shall not exceed 12 square feet in total face area, shall not exceed 4 feet in height, and shall be nearer than 10 feet from nearest point of sign to any property line. If

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such free standing sign faces substantially at right angles to the road and/or displays in more than one direction, it shall have a face area of not more than 8 square feet per side, with no more than two sides.

- (b) Dwellings for five or more families may display one nonilluminated sign identifying the premises, having an aggregate total face area of not more than 8 square feet and not projecting beyond the principal building on the lot more than 12 inches.
 - (c) Any dwelling unit in a detached, attached or town house structure may display one name plate or professional sign not exceeding 2 square feet in area.
 - (d) Any tourist home may display one sign not exceeding 6 square feet in area; and not projecting more than 12 inches from the principal building on the lot.
- (2) *Local and General Business Districts:* Not more than two signs per business unit, having a total face area of not more than one square foot per lineal foot of width for each foot of principal frontage of the lot may be displayed, but not to exceed a total area of 50 square feet. Such signs shall not project more than 5 feet beyond the principal building on the lot, and there shall be not more than one projecting sign per business unit, provided further that such signs shall not extend more than 20 feet above the ground level or exceed the highest part of the building housing the business or service advertised, whichever is less restrictive except in the case of pole signs which shall be limited to a maximum height of 35 feet above ground level. "Principal frontage" throughout this subsection shall mean the frontage of the lot adjacent to the principal street in the case of a corner lot. Where a corner lot faces two principal business streets, only one such frontage shall be considered the "principal frontage".

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(3) *Conference-Office-Research District:*

(a) A name identifying the owner, occupant or building may be displayed on all sides of principal buildings when cut into any masonry surface or when otherwise affixed to the side of the building and constructed of bronze, stainless steel or other similar material and incorporated into the architectural design of such building. Such name may be indirectly illuminated. Alternately or additionally, an owner or occupant may maintain a detached identification sign having an aggregate total face area of not more than 80 square feet and not more than 10 feet in height, provided such sign shall be designed as part of a comprehensive site and landscape plan and such sign shall be placed not closer than 10 feet from any property line.

(b) Directory signs and orientation maps not exceeding 100 square feet may be installed at each district entrance, provided such signs are designed as part of the site and landscape plan for the district or portion thereof covered by such directory. Directory signs listing occupants of individual buildings may be installed on the front lawn appurtenant to such building not closer than 5 feet from the property line, provided such sign shall be designed as part of the site and landscape plan for such building and shall not exceed 4 feet in height. Directional signs indicating entrances, exits and parking facilities not exceeding 4 square feet may be appropriately positioned.

(4) *Representational signs:* No representational sign shall be permitted in any district except such sign as shall be approved by the zoning board of appeals. Such sign shall not project more than 5 feet beyond the principal structure to which it is attached, and shall not have a face area of more than 15 square feet. Only one such sign per establishment shall be permitted.

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The area of such signs shall be included in the maximum sign area allowable under paragraph (2) of this subsection.

- (5) *Billboards*: Notwithstanding any other provision of this Local Law, signs not pertaining to the use, sale, rent or lease of property on the same lot, and signs not representing construction or subdivision activity as allowed, are not permitted in any district, except that signs for the purpose of directing persons to a local business or community establishment may be erected in any district, providing such signs shall not exceed 4 square feet in area per establishment, shall conform with applicable regulations of the district in which they are located and shall be grouped on community poles erected and maintained in accordance with regulations of the town board.
- (6) *Projecting signs*: Signs projecting into a public right-of-way shall have a clearance of not less than 10 feet above the sidewalk or surrounding ground and not less than 15 feet above any public driveway or thoroughfare. No sign may project into any public right-of-way without written approval from the zoning board of appeals.
- (7) *Subdivision signs*: Any person offering lots for sale in a subdivision may erect nonilluminated, directional signs within the limits of the subdivision or adjoining property in the same ownership, having an aggregate total face area of not more than 50 square feet. The permit for such signs shall be issued for a period of one year, and may be renewed for successive periods of one year each following a determination by the building and zoning administrator that the signs have been repainted or are in good condition in each case.
- (8) *Exemptions*: The following signs shall be exempt from these regulations:
 - (a) Real estate signs in residential districts which advertise the sale, rental, or lease of the premises

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upon which said signs are located, having an aggregate total face area of not more than 6 square feet, 12 square feet in any business district, 20 square feet in any industrial district or conference-office-research district;

- (b) One professional or business name plate not exceeding two square feet in area for any one professional or business establishment where such sign would not otherwise be a permitted use;
 - (c) One sign denoting the architect, engineer, and/or contractor when placed upon work under construction, and not exceeding 12 square feet in area;
 - (d) Memorial signs or tablets, names of buildings, and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material;
 - (e) Traffic or other municipal signs, legal notices and such temporary, emergency, or nonadvertising signs as may be authorized by the town board;
 - (f) Posting of notices to the public pertaining to but not limited to fishing, trespassing and the like, provided each such sign does not exceed one square foot in area;
 - (g) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, not exceeding 24 square feet in area and located on the premises of such institutions.
- (9) *Illuminated signs*: Illumination of signs shall not be of intermittent or varying intensity or produce direct glare beyond the limits of the side property line. Colored lights of such shape and hue that they may be confused with official traffic lights and signals shall be prohibited. All bare incandescent light sources and immediately adjacent reflecting surfaces shall be shielded from view.

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- (10) *Banners*: No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices.
- (11) *Roof signs*: No signs shall be placed on the roof of any building.
- (12) *Posters*: Temporary, nonpermanent posters advertising or announcing political events, sporting events, shows and elections, shall not be displayed until 4 weeks prior to the event and must be removed within 4 days after the event. No such sign shall be attached to a street or utility pole.
- (13) *Maintenance, alterations and violations*: No sign shall be erected or altered except in conformity with the provisions of this Local Law. It shall be the duty of the owner and occupant of lands or buildings having signs thereon to maintain the same free of faulty wiring, loose fastenings and any other conditions which, in the opinion of the zoning administrator, would render such sign unsafe and hazardous to members of the public. If the zoning administrator shall find that any sign has been erected, altered or maintained in violation of the provisions of this Local Law he shall serve written notice specifying the violation upon the owner of the sign and the owner or occupant of the land or building upon which the sign is erected, directing such owner or occupant to forthwith remedy such violation or remove such sign within thirty days from the date of service of such notice. Such notice may be served personally or by certified mail addressed to such owner or occupant at the address stated in the permit application for such sign, or in the absence of such application, the address of the premises upon which such sign is located. Upon failure of such owner or occupant to remedy such violation or remove such sign within such thirty-day period, the zoning administrator shall thereupon revoke such sign permit. Thereafter such owner or occupant shall be in violation of this

Local Law. In addition to all penalties and remedies provided in respect of such violation of this Local Law, the zoning administrator may cause such sign to be removed and assess the costs and expenses incurred in such removal against the premises on which such sign is located. For the purposes of the service of all notices hereunder, the occupant of land or premises, if he shall not be the owner thereof, shall be deemed the agent of such owner for the purpose of receiving such notices, and service of notice upon such occupant shall be deemed service upon the owner.

- (14) Where the zoning administrator finds that any sign no longer advertises an existing business conducted upon the premises on which such sign is located, he shall serve upon the owner or occupant of said premises a notice in the manner prescribed in the preceding subparagraph, directing such owner or occupant to remove such sign within the period prescribed in the preceding subparagraph. Upon failure of compliance, all provisions of the preceding subparagraph with respect to enforcement shall apply.
- (15) *Advisory board:* The supervisor of the Town of Guilderland is hereby authorized and empowered to appoint a sign and billboard advisory board consisting of members of the town board, the zoning board of appeals and the planning board together with such professional volunteers as he deems helpful or necessary.

D. *Special use permits—Standards.* In any district where a use is permitted under a special use permit, such use shall be deemed a permitted use conditioned upon compliance with the requirements and standards herein set forth and such further requirements, standards, terms and conditions applicable to the specific use as may be prescribed by the zoning board of appeals in the special use permit authorizing such use. Any failure of such compliance after the issuance of a special use permit shall be deemed a violation of this Local Law. No special use permit shall be granted until the zoning board of appeals shall find and determine that:

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- (a) Such use is reasonably necessary or convenient to the public health, welfare or the economic or social benefit of the community;
- (b) Such use is suitably located in relation to transportation, water and sewerage requirements of this Local Law or, where not specifically required, that such facilities are otherwise adequate to accommodate anticipated use;
- (c) [Reserved]*.
- (d) No undue traffic congestion or hazard will be created;
- (e) The character of the neighborhood and values of surrounding property are reasonably safeguarded;
- (f) Such use will comply with all other terms, conditions, requirements and standards imposed by this Local Law.

The zoning board of appeals is hereby authorized and empowered to and shall in any special use permit impose such additional specific terms and conditions as it shall deem reasonably necessary to insure or promote public health, safety and convenience.

E. *Industrial districts.* In addition to standards and regulations herein prescribed, all uses in industrial districts shall be subject to the following specific regulations:

- (1) No use shall:
 - (a) Cause the emission of excessive smoke, fumes, gas or other atmospheric pollutant beyond the boundaries of the user's lot and, for the purposes of this subsection, smoke shall be deemed excessive when its shade or appearance is darker than number 2 on Ringelmann's Scale for Grading Density of Smoke;

*Editor's note—Paragraph (c) was inadvertently omitted from subsection D. Therefore, the editor has reserved that paragraph for future use.

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- (b) Cause noise audible beyond the boundaries of the user's lot;
 - (c) Discharge any waste material into any sanitary disposal system or sewerage system, except as permitted by the public health authorities of the municipality controlling such sewerage system and as permitted by the Town of Guilderland with respect to any town-owned or operated sewerage system;
 - (d) Store or stock any waste material on the premises of the user.
- (2) All users shall:
- (a) Store all materials, supplies, finished or partially finished products on the rear one-half of the premises screened from any existing or proposed street;
 - (b) Install and maintain loading docks and other facilities for the handling of freight and materials only on those sides of any building not facing upon any street or proposed street;
 - (c) Attractively landscape the unoccupied or unused portions of the premises with lawn, trees, shrubs or other plant material with due consideration to the natural growth and the nature and condition of the terrain;
 - (d) Where the premises adjoin a residence district, in addition to fencing requirements hereinbefore prescribed, provide a buffer strip along the district boundary at least 100 feet in width and landscaped;
 - (e) Comply with such additional conditions and requirements as may be imposed by the planning board where applicable upon review of any proposed development;
 - (f) The zoning board of appeals may waive any of the requirements of subsections (a), (b), (c) and (d)

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of this subdivision (2) where it finds that such requirement will impose an undue or unreasonable hardship or inconvenience and where such waiver will not adversely affect the surrounding area, provided that no requirement imposed by the planning board may be so waived.

F. *Gasoline filling stations.* In any district where permitted, a gasoline filling station shall be subject to the following regulations:

- (1) Filling stations shall be permitted only on lots of 10,000 square feet or more, with 150 feet minimum frontage and on corner lots a minimum of 100 feet of frontage on each street or highway;
- (2) The area for use by motor vehicles, except access drives thereto, as well as any structures shall not encroach on any required yard area;
- (3) No fuel pump shall be located closer than 20 feet from any side lot line nor closer than 35 feet from any street line, measured from the outside edge of the fuel island;
- (4) No access drive shall be within 200 feet of and on the same side of the street as a school, public library, theater, church, or other public gathering place, park, playground or fire station unless a street 50 feet wide or more lies between such service station and such building or use.
- (5) All repair work and storage shall be within a completely enclosed building which has a maximum height of 25 feet;
- (6) Except in industrial districts, no pump island shall have more than three pumps and no filling station building shall have more than two bays.

G. *Excavations for soil mining.* Excavation for the purpose of soil mining such as gravel pits, quarrying, or any subsoil

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removal shall be allowed only by special use permit in the "A" district, subject to the provision of subsection A(2) of this section and the following regulations:

- (1) Before a special permit is issued, the applicant shall submit to the planning board and the board of appeals two copies of a map at a scale of one inch equals not more than 100 feet showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers, if any, and names of the land owners. Such map shall also show the present topography at 2 foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.
- (2) The applicant shall also submit to the planning board and the zoning board of appeals two copies of the proposed plan of excavation at the same scale as above showing the proposed finished elevations at one foot contour intervals and the proposed drainage plan.
- (3) During excavation or quarry operations, open pits and quarry walls shall be entirely surrounded by a substantial fence at least 6 feet high that will effectively block access to the area, with suitable gates provided with locks. Top and/or toe of slope shall be not closer than 40 feet to a property line.
- (4) No rock crusher, cement plant, or other crushing, grinding, polishing, or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted.
- (5) The proposed finished grading plan shall show the land to be smooth-graded and topsoil respread to a minimum depth of 4 inches; slope shall not exceed the normal angle of repose of the material removed.
- (6) A performance bond with adequate surety shall be required of the applicant in an amount determined by the building and zoning administrator upon the advice of the town engineer or an engineer appointed for such

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purpose. Said bond shall be conditioned upon the completion of the finished grading and drainage plan and shall be released upon certification by the building and zoning administrator and such engineer that the conditions of said bond have been fulfilled.

- (7) No special permit for excavation operations or soil mining shall be granted for a period of more than three years, but such permit may be extended for an additional two years upon approval of the board of appeals.
- (8) Upon approval, one copy of the approved excavation plan shall be returned to the applicant by the zoning administrator together with the special use permit upon the payment of a fee in accordance with the schedule of fees as promulgated from time to time by the town board to cover all engineering and other costs directly attributable to the approval and office and field checking of the proposed soil mining operations.
- (9) Notwithstanding any other provision of this section, excavation for the purpose of soil mining is prohibited within that area of the Town of Guilderland bounded on the north by the Town of Colonie, on the east by Fuller Road, on the south by Western Turnpike, and in the west by New York State Route No. 146. In enacting this subsection, the legislative body is mindful of the ecological uniqueness, fragility and the aesthetic value of the area so described and of the importance of preserving its natural resources.

H. *Motels.* A motel may exceed the existing height limitations set forth in the area and bulk schedule of this Local Law provided that no motel shall exceed 6 stories in height and further provided that the minimum front, side and rear yard setback distances shall be increased beyond those otherwise required by this Local Law, 6 feet for each additional story above the third story.

Except where otherwise provided by this Local Law, the minimum distance between the building and any side lot line

shall be 15 feet and the minimum distance between buildings shall be 10 feet. No motel shall be constructed on any lot where the land area shall be less than 2,000 square feet per unit, provided, however, that in an area serviced by municipal water and sewer facilities and where the lot is within one-quarter of a mile of the corporation line of a city, the zoning board of appeals may, where it finds that the surrounding area will not be adversely affected and all other requirements of this zoning law are met, vary the square foot per unit requirements provided that in no event shall such requirement be less than 1,000 square feet per unit.

No certificate of occupancy shall be issued for any building constructed under this subsection until there is submitted to the zoning administrator a certificate of an architect duly licensed by the State of New York, or other proof acceptable to the zoning board of appeals, that the building as constructed complies in all respects with the applicable requirements of the New York State Building Construction Code, and further proof satisfactory to the zoning administrator of the issuance of approval of water supply and sewage disposal facilities by all appropriate regulatory agencies having jurisdiction and whose approval is required by law.

I. *Drive-in movie theater.* Drive-in movie theaters shall be subject to the following additional regulations:

- (1) Minimum area requirements of:
 - (a) 480,000 square feet,
 - (b) Minimum frontage of 600 feet plus an additional 100 feet of frontage for each 100 car capacity above 500 cars,
 - (c) 100 feet of front yard for service facilities,
 - (d) Off-street waiting or storage area for accommodation of not less than 25% of total capacity.
- (2) Screens shall not face highways.
- (3) There shall be not less than one ticket booth for each 300 car capacity or fraction thereof.

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- (4) Approval by all appropriate regulatory agencies having jurisdiction of the facility as a place of public assembly and of structures and layout.

J. Hospital. In addition to all other requirements imposed by this Local Law, hospitals shall have a minimum lot area of five acres and shall have a minimum distance between buildings and lot lines of 100 feet.

K. Membership or private club, community building. In addition to all other requirements imposed by this Local Law, membership or private clubs and community buildings shall

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have a minimum distance between lot lines and buildings of 100 feet and shall permit no off-street parking in required front yard area.

L. Multiple dwellings.

(1) Multiple dwellings not in excess of two and one-half stories in height:

(a) In areas where municipal water and sewerage facilities exist capable of servicing the estimated needs of the inhabitants of the proposed dwelling, the lot area shall contain 3,500 square feet per dwelling unit.

(b) In areas where municipal water facilities exist capable of servicing the estimated needs of the inhabitants of the proposed dwelling the lot area shall contain 5,000 square feet per dwelling unit. In such areas a sanitary sewage treatment plant shall be required which shall be acceptable to and approved by all appropriate regulatory agencies and shall contain such additional requirements, if any, as may be imposed by the zoning board of appeals or the planning board.

(2) Multiple dwellings in excess of two and one-half stories in height:

No multiple dwelling shall be erected in excess of two and one-half stories in height except in areas where municipal water and sewerage facilities are available and capable of servicing the estimated needs of the inhabitants of the proposed dwelling. In such areas, and subject to all rules, regulations and requirements imposed by this Local Law not inconsistent with the provisions of this paragraph, high rise multiple dwellings may be erected, provided that the density shall not exceed 35 families per acre and the building area coverage shall not exceed 10% of the lot area.

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(3) General requirements:

- (a) No multiple dwelling shall be constructed on a lot consisting of less than two and one-half acres;
- (b) In addition to all other parking regulations imposed by this Local Law, one parking space out of each seven shall be reserved and used for tree planting;
- (c) In all areas and in all respects not inconsistent with specific provisions of this subsection L of the supplementary regulations, the erection and use of multiple dwellings shall be subject to lot size, density, yard size, lot coverage and off-street parking requirements and standards imposed by this Local Law.
- (d) Notwithstanding any other provision of this Local Law, no certificate of occupancy shall be issued for any multiple dwelling until there is submitted to the zoning administrator a certificate of an architect duly licensed by the State of New York or other proof acceptable to the zoning board of appeals that the building as constructed complies in all respects with the requirements of the New York State Building Construction Code.
- (e) In any development combining one or more multiple dwellings in excess of two and one-half stories in height with other multiple dwellings and/or single family or two-family dwellings, the density shall not exceed 21 families per acre.

M. Riding academies. Riding academies shall be subject to the following additional regulations: Minimum distances shall be 125 feet between [the] street line and any building and 100 feet between buildings and any side or rear line and 100 feet between buildings and any dwelling. No riding academy shall be erected to a height in excess of 35 feet.

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N. *Cemeteries and crematories.* No burial or memorial plots or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or landscaped strip at least six feet in height providing complete visual screening from all adjacent residential property is provided, burial or memorial plots of less than 6 feet in height may be located not closer than 20 feet from any residential lot line. Crematories shall be located only in cemeteries.

O. *Sanitary disposal.* No person shall undertake to construct any new building or structure in the Town of Guilderland without first meeting the requirements for a system, or facilities, for the separate disposal of waterborne sewage, domestic or trade wastes in accordance with applicable regulations of the town, the New York State Department of Health and other governmental authorities.

P. *Residential cluster development.* For the purpose of preserving open green areas for community recreation and enjoyment in connection with residential development and to provide greater flexibility in the planning of residential subdivisions of such purposes, the planning board is hereby authorized to vary the strict application of the provisions of this Local Law with respect to lot size, building location and density in agricultural and residential districts where, in the opinion of such planning board, the natural beauty and resources of the land can be permanently preserved and maintained, the overall aesthetic aspects of residential development in the area will be enhanced, overall population density will not be adversely affected and the health and general welfare of the community will be promoted.

Variances granted hereunder shall be subject to the following conditions and limitations:

(1) *General conditions:*

- (a) No variance shall be granted hereunder in respect of any residential subdivision without provision for the preservation of an open undeveloped area

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within such subdivision comprising a single unified undivided parcel of land having a minimum area of three acres exclusive of streets and roads.

- (b) Where any lot in such subdivision is reduced in area below the minimum otherwise required by this Local Law, the minimum area requirement of such open area shall be increased by the amount of such lot area reduction.
 - (c) No variance shall be granted hereunder unless the planning board shall find that the average population density in the proposed subdivision will not exceed that otherwise limited by this Local Law.
- (2) *Single-family detached dwellings:* Minimum lot size and dimensions for single-family detached dwellings grouped in clusters pursuant to the provisions of this section shall be as follows:

	<i>Minimum Lot Size</i>	<i>Minimum Lot Width</i>	<i>Minimum Front Yard</i>
A Districts	40,000	125	50
R20 Districts	15,000	80	30
R15 Districts	10,000	80	30
R10 Districts	8,000	80	30

- (3) *Contiguous dwellings:* The planning board may authorize the construction of contiguous single-family dwellings provided that no more than eight such dwellings shall be contiguously constructed and further provided that no such single contiguous dwelling shall occupy a lot of less than 2,000 square feet, the rear yard of which shall be not less than 25 feet in depth.
- (4) *Open area—Access rights:* Open areas established hereunder shall be conveyed to and held in corporate ownership in such manner and form as shall be approved by the planning board. No lot in such subdivision shall be conveyed by the subdivider, developer or other owner of such subdivided tract except by a deed conveying, in addition to fee title to such lot, an easement

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in and upon the lands of such open area for the use and enjoyment thereof by the grantee, his heirs, successors and assigns, in common with the owners of all other lots within the subdivision, such easement to be in such form as shall be approved by the planning board, and such easement shall run with the title to the lot so conveyed. The use of such open areas shall be limited to recreational and agricultural purposes and no structure shall be erected upon the lands of such open areas except such as shall be determined by the planning board to be incidental to such recreational or agricultural use. No building permit shall be given for such structure in the absence of site plan approval thereof given by the planning board. To insure the enforcement of the provisions of this subsection, the planning board as a condition to the granting of subdivision approval may require the subdivider, developer or other owner of such subdivided tract to make, execute, deliver or file such instrument or instruments as the planning board shall determine to be reasonably necessary to protect and preserve and to limit and restrict the use of such open area in accordance with the spirit and intent of this section. All legal, engineering and other expense in connection with the matters herein provided shall be borne by such subdivider, developer or other owner of such subdivision.

Q. Swimming pool. Swimming pools shall be subject to the provisions of section VI A (5), Accessory Buildings and Uses.

A permanent, good quality fence shall be erected to encompass the entire perimeter of the swimming pool and the fence shall be not less than 4 feet in height and otherwise shall be in accordance with the standard specified for fences in Section VI A (6). The zoning board of appeals may grant permission to install a fence not to exceed 8 feet in height in accordance with the provisions of Section VI A (6).

Every gate or other opening in the fence enclosing such pool except an opening through the dwelling or other main

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building of the premises, shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool.

Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.

If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.

Where the pool is installed in an area supplied by a public water system, the building and zoning administrator shall be furnished proof that the appropriate water authority has no objections to the tie-in with such water system, or, in the alternative, proof that the water will be furnished by an independent contractor.

No loudspeaker device which can be heard beyond the property lines of the premises on which any swimming pool has been installed may be operated in connection therewith, nor may lighting be installed in connection therewith which shall throw any rays beyond such property lines.

Swimming pools existing at the time this subparagraph becomes effective, shall within sixty days after such date be enclosed by a fence as herein required for new swimming pools.

R. *Dumps.* Dumping of refuse, rubbish, garbage or waste material of any kind upon lands in the Town of Guilderland is prohibited, except in accordance with the provisions of the town ordinance entitled, "An Ordinance Regulating the Use of Lands Within the Town of Guilderland as a Dump or Dumping Ground and Regulating the Collection and Disposal of Garbage and Rubbish in said Town of Guilderland," as adopted May 25, 1964 and as amended from time to time and except for the purpose of filling to establish grades under permit issued by the town board.

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S. Office buildings—Highrise. Office buildings, the principal use of which shall be the accommodation of offices for administrative, governmental, public utility, professional or sales activities including retail stores, shops, restaurants and cafes may be permitted to exceed the existing height limitations set forth in the area and bulk schedule of this Local Law, provided that the minimum front, side and rear yard setback distances shall be increased beyond those otherwise required by this Local Law 6 feet for each additional story above the second story.

No certificate of occupancy shall be issued for any building constructed under this subsection until there is submitted to the zoning administrator a certificate of an architect duly licensed by the State of New York, or other proof acceptable to the zoning board of appeals, that the building as constructed complies in all respects with the applicable requirements of the New York State Building Construction Code.

T. Conference-Office-Research districts:

- (1) *Site plan approval:* No building permit or certificate of occupancy shall be issued for any use except in accordance with a plan of development approved by the planning board for the conference-office-research district and for the lot on which such use is to be located. In addition to requiring compliance with all other provisions of this Local Law respecting conference-office-research districts, the planning board shall give consideration to the preservation of existing natural features such as topography, bodies of water, watercourses and trees.
- (2) *Accessory uses:* When included within the principal building, uses accessory to hotels, motels and office buildings shall be deemed to include, without limitations to, assembly facilities, show rooms, bars, restaurants, gymnasiums and related health and recreation facilities, retail shops and stores, conference rooms, exhibit halls, auditoriums, computer and data processing service facilities, libraries, audio-visual and document

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transfer facilities, training schools conducted for profit and employee recruitment and testing services, personal service facilities such as barber shops, beauty salons, shoe repair facilities and laundry and dry cleaning pick-up facilities.

- (3) *Additional uses:* Notwithstanding other provisions of this Local Law, the following uses may be permitted in conference-office-research districts subject to special use permits granted by the zoning board of appeals:
- (a) Wholesale business or service which in the opinion of the zoning board of appeals is related to permitted uses in the district;
 - (b) The design and manufacture of professional, scientific, medical and controlling instruments, industrial instruments, photographic and optical instruments and communications equipment;
 - (c) Photo processing, printing and publishing;
 - (d) Design, custom manufacture and installation of exhibits for conferences, shows and conventions;
 - (e) Outdoor swimming pools, health and recreational facilities.
 - (f) Where the plan of development embraces an area of not less than 50 acres, a designed local, neighborhood or regional shopping center provided the uses therein contained shall be limited to those uses otherwise permitted in B-1 zones and provided such uses are arranged in shopping center form.
- (4) *Minimum lot size:* The minimum lot size shall be four acres, except that public utility buildings and installations, including private buildings and installations providing a utility service to two or more principal uses within the conference-office-research district, may be erected on a lot having an area of one acre.
- (5) *External storage:* External storage of materials of any kind is prohibited.

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U. *Airport and flying fields.* No airport or flying field shall be positioned so as to cause a hazard to or be detrimental to nearby properties and buildings both in the town and adjacent municipalities.

V. *Automobile sales and service.* A used automobile sales business may not be operated except in conjunction with a new automobile sales business, both of which must be established on the same lot.

W. *Kennel.* A kennel may not be operated within 300 feet of a residence other than the residence of the owner or operator thereof. Dogs must be confined within a building between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m.

X. *Residential-Professional office use.* Residential and/or professional office use shall be permitted upon special use permit in a single building provided sufficient floor area is available for each use separately and independently of the floor area used for the other use and provided that the professional office use does not materially alter, modify, change or otherwise affect the residential character of the premises and that the residential amenities of the lot are not materially affected by reason of the intensity or duration of such professional use activity. The ratio of office to living space shall be determined by the zoning board of appeals. No more than one professional office shall be permitted in a single building, and in any such single building the conduct of such professional activity shall be limited to a maximum of three persons including principals and employees. For the purposes of this subsection and subsection Y of this section professional use and professional office use shall mean the rendition of personal services normally performed on a consultation basis by clergymen, doctors, lawyers and persons engaged in similar professions, and such use shall not include the display or sale of articles, commodities or merchandise. Signs shall be limited as provided in subdivision (b) of paragraph (8) of subsection C of Section VI of this Local Law.

Y. *Residential-Neighborhood business use.*

(1) Residential and/or neighborhood business use shall be permitted upon special use permit in a single building

provided sufficient floor area is available to each use separately and independently of floor area used for the other use and provided that the non-residential use does not materially alter, modify, change or otherwise affect the residential character of the premises and that the residential amenities of the lot are not materially affected by reason of the intensity or duration of such business use activity. The ratio of office to living space shall be determined by the zoning board of appeals. Uses permitted under this classification shall include professional uses and the conduct of personal-service-type businesses such as, but not necessarily limited to, barbering, beauty culture, shoe repairing, mail-order sales (excluding on-site wholesale or retail sales) and real estate sales. The outdoor storage of supplies and materials including commercial vehicles used in any such business is prohibited. One or more of such uses may be permitted in a single building. Signs shall be limited as provided in subdivision (a) of paragraph (1) of subsection C of Section VI of this Local Law.

- (2) Notwithstanding the provisions of the preceding subdivision, wherever a single lot, parcel or tract in such zone is not improved by an existing structure, any permitted nonresidential use, whether by special use permit or otherwise, need not be limited to a single building or structure. Notwithstanding the provisions of subdivision (g) of paragraph (1) of subsection B of Section VI of Local Law No. 1 of 1971 as amended by Local Law No. 3 of 1978 wherever in such zone a nonresidential use is sought upon any such single lot, parcel or tract not improved by an existing structure, off-street parking requirements shall be as prescribed in subdivision (a) of paragraph (1) of subsection B of Section VI of Local Law No. 1 of 1971. (L.L. No. 3, 1972, §§ 5—9; L.L. No. 2, 1973, § 3; L.L. No. 4, 1973, § 1; L.L. No. 2, 1976, §§ 2, 3; L.L. No. 3, §§ 4—8; L.L. No. 3, 1979, § 3)

Sec. VIA. Planned unit development.

A. *Intent and Objectives.* It is the intent of this section to provide flexible land use and design regulations for the development of mixed communities of residential and accessory non-residential uses of neighborhood proportion thereby promoting and facilitating the efficient and harmonious development of the extensive undeveloped areas of the Town of Guilderland consistent with the town's master plan recognizing the inevitability of change brought about by population movement and growth. This section is intended to encourage innovation in residential development to serve the growing demands for housing at various economic and income levels while at the same time conserving land and other natural resources so that the entirety of the remaining undeveloped land resources of the town may be put to more efficient use consistent with the interests of all elements of the public commonwealth. In furtherance of such intent this section recognizes its inconsistency with regulation rigidity and uniformity necessarily characteristic of this zoning law and purposefully intends to replace such concepts by flexibility of regulation and control for the purposes of planned unit development of large tracts of land in keeping with the principles and concepts above stated.

In pursuing such intent this section holds as objectives a maximum choice in type of environment, housing, lot size and community facilities; a maximizing of usable open space and recreation area; greater convenience and efficiency in the location of accessory commercial and service areas; the preservation of trees, streams, natural topography and geologic features and prevention of soil erosion, pollution and other ecological destructiveness; creativity in the use of land and related physical development to promote more orderliness in the inexorable transition from rural to urban uses; efficiency in the use of land to achieve lesser and more efficient network of utilities, streets and other service facilities to reduce housing costs; a development pattern harmonious with the objectives of the master plan, and generally a more desirable environment than that obtainable through the strict application of other sections of this local law.

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B. *Zoning classification.* There is hereby added to the zoning district classifications of the Town of Guilderland a classification to be known as planned unit development or PUD. The permitted uses within a PUD zone shall be all residential uses, accessory commercial retail uses and service uses proportioned to serve primarily the residents of the PUD zone and the immediately surrounding area, and public and private recreational, educational, cultural, health, hospital and charitable uses. Industrial, transient servicing uses such as hotels and motels and other business or commercial uses clearly designed to rely primarily on markets beyond the PUD community shall not be permitted uses. In a PUD zone no building or structure shall be erected, moved, altered or used, nor shall any land be excavated or altered in its contour, nor shall any permit be issued therefor or certificate of occupancy granted until such use shall have been approved as provided in this section.

C. *Administrative provisions, grant of power.* There is hereby delegated to the planning board in the exercise of its functions in carrying out the provisions of this section all delegable powers under section 276 and 281 of the town law. In addition, there is hereby specifically delegated to the planning board the power to approve all proposed public water and sewerage facilities, public roads, drives, rights-of-way, side-

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walks and drainage facilities and to require the installation of the same prior to construction. No building permit for a dwelling or building for commercial use shall be issued nor shall construction of any such dwelling or building be commenced until all required public water and sewerage facilities, public roads, drives, rights-of-way, sidewalks and drainage facilities have been installed or until monies shall have been deposited with the town comptroller in an amount or amounts sufficient to insure the completion of such facilities as determined by the planning board. For good cause shown the town board may, upon recommendation of the planning board, authorize the substitution of a performance bond in form approved by the supervisor for all or a portion of any cash deposit required hereunder. All roads proposed to be dedicated as public roads and conveyed to the town for such purpose must conform with the provisions of the town board's resolution relating to the acceptance of streets and highways adopted September 28, 1961, and as from time to time amended, or its superseding enactments.

D. *General regulations:*

- (1) *Minimum area:* No tract or parcel of land having less than 100 contiguous acres of land shall be zoned PUD.
- (2) *Applicant qualifications:* An applicant for a PUD zoning classification shall be an owner, lessee, optionee, or contract vendee of the land or premises which is the subject of the application. Where the applicant is a contract vendee or optionee he shall be joined in the application by the owner. Where the property which is the subject of the application consists of more than one parcel or the title is in multiple ownership all ownership interests must participate in the application and the approved plan shall be binding upon all owners.
- (3) *Location of PUD district:* Any area within the Town of Guilderland may be zoned PUD in accordance with the provisions of this section where the applicant can demonstrate that the objectives of this section can be attained.

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(4) *Use allocations:*

- (a) *Residential uses:* The types of residential uses permitted in a PUD zone shall be multiple dwellings, two-family dwellings, contiguous single-family dwellings and detached single-family dwellings. For the purposes of this section the term contiguous single-family dwelling shall mean a single-family dwelling contiguous or attached to another single-family dwelling, having a separate entrance, separate lot area separated from such other single-family dwelling by a party wall or joined thereto by a contiguous but separate wall.
- (b) *Residential use limitations:* Not less than two types of residential uses mentioned in subdivision (4)(a) shall be required in any PUD zone. The proportion of dwelling units devoted to any one such type of residential use shall not exceed 50% of the total number of all dwelling units in the PUD zone.
- (c) *Density:* The ratio of dwelling units to total land area in a PUD zone shall not exceed 3 per acre. No residential use shall exceed the following density limitations within the land area allocated to such use:

Multiple dwelling	15 units per acre
Two-family dwellings	4 units (2 buildings) per acre
Single-family dwelling attached or contiguous	8 units per acre
Single-family dwellings detached clustered	4 units per acre
Single-family dwellings detached, unclustered	2 units per acre

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- (d) *Non-residential use allocations:* Not more than 5% of the total land area of any lot or tract of land developed or proposed to be developed in a PUD zone may be allocated to commercial service and retail uses. The area allocable to such uses shall include such area as shall be required for parking and other uses appurtenant and incidental to the commercial use. Such uses shall be housed in structures detached, separate and apart from structures used for residential purposes except such commercial service uses as are permitted as home occupations under the provisions of this zoning law.
- (e) *Open area:* Not less than 40% of the total area of any lot or tract developed or proposed to be developed in a PUD zone, exclusive of the area used for roads, highways and walkways, shall remain open and undeveloped and reserved for the common use and enjoyment of the residents of the zone.
- (f) *Land allocation and density determinations:* The town board is empowered to impose a more restrictive density limitation in respect of any proposed use and may require the reservation of a larger proportion of land area for common use as prescribed in subdivision (4)(e). The town board may upon each application and as a condition to the granting of a PUD zone classification determine the density for each type of residential use having regard in each case for the environmental quality, land use and density characteristics of adjoining areas and properties. In making such density determinations the town board may consider but shall not be bound by density limitations prescribed elsewhere in this local law; provided, however, that where a project is planned in an area where municipal water facilities or municipal sewerage facilities are not available, the density limitations with respect to multiple dwellings shall

be as in such case otherwise provided by this local law. The land use allocation and density determinations made hereunder shall be documented as a part of the PUD zoning proceedings and shall be supported with all relevant and material facts, opinions and judgments upon which the town board shall have relied in making such determinations.

- (g) *General provisions:* Where in a PUD zone property is reserved for the common use and enjoyment of the residents of the zone as herein provided, such property, subject to the approval of the planning board and town board, may be placed in public or private ownership. The planning board, subject to the approval of the town board, may direct that such property be subjected to such easements for the common enjoyment as it may determine and may direct that such property be conveyed to and held in corporate ownership in such manner and form as it may determine. Such common areas shall be limited to recreational and agricultural use and no structure shall be erected upon such lands except such as shall be determined by the planning board to be incidental to such recreational or agricultural use. No building permit shall be given for such structure in the absence of site plan approval thereof given by the planning board. To ensure the enforcement of the provisions of this section the planning board or town board as a condition of approval may require the applicant or other owner of such land to make, execute, deliver or file such instrument or instruments as the planning board shall determine to be reasonably necessary to protect and preserve and to limit and restrict the use of such common area in accordance with the spirit and intent of this section. All legal, engineering and other expense in connection with the reservation of such areas for common use shall be borne by the applicant or owner.

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E. *Procedure; zoning approval:*

- (1) *Sketch plan approval:* Prior to the filing of an application for PUD zoning the applicant shall prepare and file with the planning board a sketch plan of his proposal. The sketch plan shall be prepared approximately to scale and shall generally show the location of the various uses and their approximate areas in acres; the street, road or highway system; a delineation of the residential areas showing the approximate extent, size and composition thereof in terms of number and types of dwelling units; the open space arrangement; the drainage system, transportation facilities, proposed water and sewerage disposal facilities and a general description of other facilities such as schools, fire protection facilities, cultural and recreational facilities. Together with such sketch plan the applicant shall also file a topographic map showing contour intervals of not more than five feet in elevation, together with an overlay outlining all areas susceptible or as a result of proposed construction likely to become susceptible to soil erosion, flooding or ponding upstream or downstream. Such documents shall also be accompanied by a location map showing the proposed PUD area in relation to surrounding areas, the zoning classification, the uses and ownership of adjoining land parcels, and the surrounding road and watercourse network. The planning board may require the filing of such additional documents as it may determine evidencing the manner in which the proposal meets existing community demands, its compatibility with the master plan, and the physical and financial competence of the applicant to execute the proposed development. If the applicant proposes that the development is to be staged, the planning board may require a general indication of the staging process and the applicant shall be bound thereby.
- (2) *Planning board review of sketch plan:* Within 60 days of its receipt of all materials required by the preceding subsection the planning board shall file a report

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with the town board and furnish a copy thereof to the applicant approving the sketch plan, approving it with modifications or disapproving it. All such reports shall, unless disapproving, contain a certification by the chairman that all of the documents required by subsection E(1) have been submitted and shall contain findings that the proposal does, or will if modified as stated in such report:

- (a) conform to the master plan,
- (b) meet the intent and objectives of planned unit development zoning as stated in subsection A,
- (c) meet all the requirements of subsection D,
- (d) conform to accepted design principles in the proposed functional roadway system, land use configuration, open space system, and drainage system,
- (e) provide adequately for services and utilities, and
- (f) achieve conceptual soundness.

If the plan is approved, subject to modifications, such required modifications shall be fully set forth in the report. If the plan is disapproved, such report shall clearly and fully state the reasons therefor. The planning board may seek such consultation and advice as it deems desirable or necessary and the cost thereof shall be chargeable to the applicant.

- (3) *Application for PUD zoning:* Upon receipt of the planning board's report approving such sketch plan or, in the event of receipt of a report approving such plan with modifications, upon receipt of certification from the chairman of the planning board that such plan with the proposed modifications incorporated has been submitted, the town board shall set a date for and conduct a public hearing as required by law for the purpose of considering the proposed PUD zoning in accordance with the applicant's plan. Such hearing shall be held

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within 60 days of the receipt of such report or certification, as the case may be. The town board may upon its own motion elect to conduct such a public hearing upon receipt of a disapproving report. The planning board proceedings leading to its report approving, with modifications, or disapproving shall in all cases be deemed a reference to the planning board for the purposes of section X of the Zoning Law of the Town of Guilderland.

- (4) *Town board determination on zoning application:* The town board may, after a public hearing as prescribed by law, rezone the subject property to PUD classification for the purposes set forth in the applicant's plan and set forth in the final site plan approval thereof as hereinafter provided. In granting such rezoning the town board may impose such additional terms and conditions upon the plan as it deems necessary or desirable to protect the public health, safety, and welfare and such conditions may relate to but are not limited to visual and acoustical screening, land use mixes, order of construction, order of occupancy, vehicular and pedestrian traffic circulation systems, availability and reservation of sites for public services including fire protection facilities, educational institutions, libraries and cultural institutions, protection of natural resources and historic sites and such other physical or social requirements for which in the town board's judgment and discretion provision should be made. In granting all PUD zoning classifications the town board may prescribe the dwelling unit density limitations that shall govern the zone and the non-residential land use allocations in accordance with the provisions of subsection D of this section.

F. *Procedure; preliminary site plan approval:*

- (1) *Preliminary site plan:* Within 180 days following the date of the resolution of the town board rezoning the subject property, the applicant shall file with the planning board his preliminary site plan together with an

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application for approval thereof which preliminary site plan shall be prepared by an engineer, architect, land surveyor, or landscape architect duly licensed by the State of New York and shall include the following:

- (a) Title of drawing including name and address of applicant.
- (b) North-point scale and date.
- (c) Boundaries of the subject property plotted to scale.
- (d) Existing watercourses.
- (e) Location, proposed use and height of all buildings.
- (f) Location of all parking and truck-loading areas with access and egress drives.
- (g) Open spaces including the proposed use thereof.
- (h) Outdoor storage areas.
- (i) Location of all existing or proposed site improvements including drainage facilities, culverts, retaining walls and fences.
- (j) Sewerage facilities including description of the proposed method of sewage disposal.
- (k) Water supply and distribution facilities.
- (l) Location and size of all signs.
- (m) Location and description of proposed buffer areas.
- (n) Location and description of lighting facilities.
- (o) Location and description of building area proposed for non-residential uses.

Together with such preliminary site plan the applicant shall submit an area map showing the applicant's entire parcel zoned PUD including that portion of the applicant's premises under present consideration in the event the project is being staged, and said map shall in addition show all properties, subdivisions, streets,

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easements and public water and sewerage facilities within 500 feet of the applicant's PUD zoned property. Together with the foregoing the applicant shall file topographical maps at scales of 200 feet to the inch and 50 feet to the inch showing contour intervals of not more than two feet in elevation. Such maps shall be prepared so as to conform to the town's mapping system and shall be prepared on 31 inch by 36 inch sheets of paper with a map area of 30 inches by 30 inches unless otherwise prescribed by the town board. In the event two or more sheets are required for a mapped area, an index sheet shall be furnished. Such maps shall be prepared by an engineer or land surveyor duly licensed as such by the State of New York. The applicant shall further file as part of his application for site plan approval a tracing overlay showing all soils areas and their classifications and those areas (if any) with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion, and where such erosion areas are shown, such overlay shall include an outline and description of existing vegetation. The applicant shall also submit as part of his application statements of the maximum estimated cost of proposed water distribution facilities, water supply facilities (if any), sewerage facilities, and street or road construction includnig drainage facilities.

- (2) *Planning board action on application for preliminary site plan approval:* Within 90 days of the submission of all documents as prescribed in the preceding subsection, the planning board shall act thereon and either approve, approve with modifications or disapprove. Such determination shall be in writing. If the site plan is approved with modifications, such modifications shall be fully set forth; provided, however, that such modifications may not significantly alter the sketch plan as approved in the proceedings preliminary to the PUD zoning. If the planning board disapproves the site plan, the statement thereof shall set forth fully the reasons for such disapproval. In determining such ap-

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plication for preliminary site plan approval the planning board shall consider the adequacy of pedestrian traffic circulation, the sufficiency of off-street parking and loading facilities, the location, arrangement, size and design of buildings, lighting and signs, the relationship of various uses to one another, planting and landscaping, the adequacy and use of open spaces, the adequacy of drainage, sewerage and water facilities, the adequacy of anti-flooding and erosion control measures, the protection of adjoining property from noise, glare and other objectionable characteristics, conformance with the requirements of the town board in rezoning the subject property PUD, and compliance with all other applicable provisions of the Zoning Law of the Town of Guilderland.

- (3) *Variations from sketch plan:* If the application for preliminary site plan approval shows a significant or material change in any factor or element appearing on the sketch plan, the planning board shall not approve such site plan without the town board's consent to such change by appropriate resolution.
- (4) *Powers of the planning board with respect to site plan approval:* In addition to the powers granted to it by subsection C of this section, the planning board may employ engineering consultants and may require that the exterior design of all structures be prepared by or under the supervision of an architect duly licensed by the State of New York whose seal shall be affixed to the plans. The planning board's reasonable expense for engineering or other professional consultation shall be chargeable to the applicant.
- (5) *Zoning board of appeals review and approval:* Whenever any such preliminary site plan provides for the construction of one or more multiple dwellings, or for the construction of a building or structure for a business or commercial use, or for the construction of a building or structure for which a special use permit would be required under the provisions of section IV

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of the Zoning Law of the Town of Guilderland, such plan shall, prior to submission for final site plan approval as hereinafter provided, be submitted to the zoning board of appeals for its approval with respect to such multiple dwellings, business or commercial structures, or such other structures for which such special use permits are required. In its consideration of such plan the zoning board of appeals shall consider the application as an application for a special use permit with respect to such buildings or structures and shall follow the procedures prescribed by law and apply those standards provided by the Zoning Law of the Town of Guilderland for the granting of such special use permits. In considering such plan or proposal the zoning board of appeals may take testimony from the applicant and such other persons as it deems desirable or necessary. The zoning board of appeals may employ engineering consultants and the reasonable expense thereof shall be chargeable to the applicant. Within 45 days of the submission to it of the preliminary site plan and all supplemental documents as prescribed by section F(1), the zoning board of appeals shall return said plan and supplemental documents to the planning board, together with its findings and decision in writing, either granting or denying such special use permits as may be required. In the event any required special use permit is denied the zoning board of appeals shall state its reasons therefor, and no final site plan approval shall be given unless and until all such required special use permits are granted.

G. Procedure; final site plan approval:

- (1) *Application for final site plan approval:* After the granting of preliminary site plan approval by the planning board and the granting of all required special use permits as heretofore prescribed, the applicant may submit his application for final site plan approval. Such application shall contain a detailed site plan conforming substantially to the approved preliminary site plan and incorporating all changes, alterations,

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modifications, or revisions required upon preliminary site plan approval and changes consented to by the town board, if any. Such application shall be accompanied by all cash deposits as required by the planning board or proof that such monies have been deposited with the town comptroller. In addition, the application for final site plan approval shall contain proof satisfactory to the planning board that all approvals of governmental agencies other than the Town of Guilderland whose approvals are required to implement any aspect of the plan have been obtained. Such approving agencies may include but shall not necessarily be limited to state and county health agencies, state and county highway or transportation agencies, municipal, county or regional sewer, water or other improvement districts, county or regional planning commissions or agencies, park, recreation or environmental agencies, and such federal agencies whose approval may be required by law.

- (2) *Time of application for final site plan approval:* An application for final site plan approval shall be made within 24 months from the time of the granting of preliminary site plan approval. If such application is filed after 12 months from the time of the granting of preliminary site plan approval, the planning board may require a resubmission of the preliminary site plan for further review and upon such review may require such revisions, alterations, modifications, or changes as it may deem desirable or appropriate in the light of changed conditions.
- (3) *Planning board action on application for final site plan approval:* Except as otherwise provided with respect to applications for final site plan approvals submitted after the elapse of 12 months from the granting of preliminary site plan approval, the planning board shall within 60 days after the receipt of an application for final site plan approval in accordance with the requirements of subsection G(1) approve or disapprove such application. Upon approval of such application

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the planning board shall endorse its approval upon a copy of the final site plan and forward the same to the chief building inspector. Upon disapproval of the application the planning board shall inform the building inspector thereof and shall notify the town board and the applicant in writing of such disapproval and the reasons therefor.

- (4) *Building permits:* Within one year of the date of final site plan approval the chief building inspector may issue building permits for construction within the PUD zone in accordance with the final site plan and upon a satisfactory showing that the proposed structure or structures conform with all applicable building codes, special use permits and all other applicable provisions of the Zoning Law of the Town of Guilderland. No building permit or renewal or extension thereof shall be issued for construction within a PUD zone after one year from the date of such final site plan approval until such site plan shall have been resubmitted to the planning board, reviewed and reapproved by such board. Upon such submission the planning board shall have all of the powers conferred upon it by this local law with respect to planned unit developments.

H. *Staging.* Where an applicant has proposed to stage his development and has so indicated in accordance with the provisions of subsection E(1) hereof, he may limit each application for preliminary and final site plan approval to a stage or stages of the proposed development.

I. *Regulation during construction.* The planning board may employ engineering, architectural and such other consultants as it may deem necessary to inspect and review the project during construction to ensure compliance with the plan as finally approved and to ensure compliance with all of the rules, regulations and requirements of the Town of Guilderland and other governmental authorities pertaining thereto. The cost of such services shall be chargeable to the applicant and shall be paid as required by the planning board and in any event prior to the issuance of any certificate of occupancy.

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J. Regulation after initial construction and occupancy. Structural alterations, other than use changes, requested after initial construction and occupancy may be authorized by the planning board by special permit upon application therefor by the owner or lessee of the affected structure or property and upon special use permit where otherwise required by the provisions of this zoning law. No structure or land within a PUD zone shall be changed in use without a special permit therefor issued by the planning board by and with the consent of the town board expressed by appropriate resolution. In considering applications for such changes after construction and occupancy the planning board and town board shall have regard for the maintenance of the intent and function of the planned unit development. Nothing contained in this subsection or in any other provision of this local law shall be construed as authorizing any change or modification in any special use permit granted by the zoning board of appeals except upon application to such board in the manner prescribed by law.

K. Fees. All rules, regulations and provisions of the Town of Guilderland with respect to fees payable upon subdivision approval applications and building permit applications shall apply to planned unit development projects. In addition, upon application to the town board for rezoning to PUD the applicant shall pay such fee as is otherwise prescribed by resolution, rule or regulation of the Town of Guilderland for rezoning applications.

L. Miscellaneous provisions. Site plan review under the provisions of this section VIA shall be deemed a compliance with all of the provisions of subdivision regulations of the Town of Guilderland relating to the review and approval of subdivisions, and final site plan approval shall constitute final plat approval under such subdivision regulations and under the provisions of section 276 of the town law. For such purposes the applicant shall in connection with his application for site plan approvals plot the proposed project as a subdivision and prepare sufficient sets thereof suitable for filing in the office of the Albany County Clerk in accordance with the provisions of section 276 of the town law. (L.L. No. 1, 1973, § 1)

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Sec. VII. Nonconforming buildings, uses and lots.

A. *Continuation of nonconforming buildings and uses.* Any lawful building, structure or use of premises existing at the time of enactment of this Local Law [May 27, 1971] may be continued although such building, structure or use of premises does not conform to the provisions hereof. No use or occupancy in violation of any prior ordinance, local law, rule or regulation in existence at the time of the enactment of this Local Law [May 27, 1971] shall be deemed a nonconforming use hereunder so as to exempt it from the enforcement provisions hereof, and such use or occupancy shall constitute a violation of this Local Law to the extent that it shall not conform herewith.

B. *Cessation:*

- (1) Any nonconforming auto wrecking yard, junk yard, billboard, structural advertising or sign in existence at the date of enactment of this Local Law [May 27, 1971], shall at the expiration of four years from such date become a prohibited and unlawful use and shall be discontinued. Nonconforming used car lots, nonconforming exterior storage of commercial vehicles, machinery and other equipment shall at the expiration of two years from such date become a prohibited and unlawful use and shall be discontinued.
- (2) The construction or erection of any building on a subdivision lot, undeveloped at the time of the enactment of this Local Law [May 27, 1971], the area or depth of which fails to comply with the minimum lot area requirements or average density requirements of this Local Law shall be a violation of this Local Law unless at the time of enactment of this Local Law [May 27, 1971], such subdivision has been finally approved by the planning board and a map thereof has been filed in the office of the Albany County Clerk.
- (3) No time period granted under any prior ordinance, local law, rule, regulation or court order for the termina-

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tion or cessation of any use in existence at the time of the effective date hereof shall be deemed extended by any provision of this Local Law.

C. *Displacement.* No nonconforming use shall be extended to displace a conforming use.

D. *Necessary maintenance and repairs.* Any building or structure or portion thereof containing a nonconforming use and declared unsafe by any municipal authority having jurisdiction thereof may be repaired or restored to a safe condition.

E. *Change of use.* A nonconforming use shall not be changed unless changed to a conforming use. A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use.

F. *Extension.* A nonconforming use shall not be extended except that extension of a use to any portion of a building arranged or designed for such nonconforming use at the time of enactment of this statute [sic], shall not be deemed the extension of a nonconforming use.

G. *Construction started prior to this Local Law.* Any building or structure, the construction of which was lawfully commenced prior to the effective date of this Local Law [June 16, 1971], or any amendment thereof, pursuant to a permit duly issued therefor, may be completed in accordance with its plans and specifications and used accordingly.

H. *Alterations.* A building arranged, designed or devoted to a nonconforming use at the time of the effective date of this Local Law [June 16, 1971] may not be reconstructed or structurally altered except upon permit issued by the zoning board of appeals conditioned upon compliance with all of the terms, conditions, requirements, regulations and standards of this Local Law applicable to the district in which such building is located and to the use contemplated. Nothing herein contained shall be construed as preventing the repairing, refurbishing or redecorating of a building or structure devoted to a nonconforming use provided that the character of such

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nonconforming use shall not change except to a conforming use and that such repairing, refurbishing or redecorating shall not permit or result in an expansion of such nonconforming use and shall not constitute a material or substantial structural or functional alteration or modification of such building or structure.

I. *Existing undersized lots:*

- (1) Any lot held in single and separate ownership prior to the adoption of this Local Law and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Local Law for the district may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:
 - (a) Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district;
 - (b) Such lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line if it is to be used for residential purposes;
 - (c) The following minimum yard dimensions are maintained for residences:
 - Side yards—8 feet;
 - Front and rear yards—25 feet; and
 - (d) All other bulk requirements for that district are complied with.
- (2) In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single-family dwelling.
- (3) A lot of nonconforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owners' or owner's property or properties.

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J. *Lot area.* Except as provided in section VI P, no lot shall be reduced in area so that any required area or open space will be less than prescribed in the regulations for the district in which said lot is located. Whenever any such reduction in lot area occurs, any building located on said lot shall not thereafter be used until such building is altered, reconstructed or relocated so as to comply with the area and yard requirements applicable thereto. These provisions shall not apply when a portion of a lot is taken for a public purpose.

If 25 per cent of the block frontage on the same side of the street is improved with buildings having a greater or lesser depth of front yard than is required by this Local Law, new buildings shall have a front yard whose depth shall be not less than the least depth of front yard of such existing buildings.

K. *Exemption of lots shown on approved subdivision plats.* The provisions of Section 265-a of the Town Law are hereby made expressly applicable to this Local Law with respect to lots shown on approved subdivision plats duly filed in the office of the Albany County Clerk prior to the enactment of this Local Law [May 27, 1971].

L. *Lots in two districts.* Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend no more than thirty feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

M. *Restoration.* Only on a permit issued by the zoning board of appeals shall a building used to house a nonconforming use be restored if damaged or destroyed by fire, flood, earthquake, act of God or act of public enemy. Substantial restoration shall be made within six months but this time limit may be extended by such board in cases of practical difficulty or hardship.

N. *Abandonment.* When a nonconforming use has been abandoned, it shall not thereafter be re-established.

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O. *Creation of nonconforming uses due to changes in district boundaries.* Whenever the boundaries of a district shall be changed so that, under the regulations that apply in the changed area, a conforming use shall become a nonconforming use, all of the foregoing provisions of this section shall apply to such nonconforming use.

Sec. VIII. Administration.

A. *Enforcement.* This Local Law shall be enforced by the building and zoning administrator and by such other officers, agents and employees of the Town of Guilderland as the town board may from time to time designate.

B. *Building permit.* No building or structure shall be erected or structurally altered nor shall an excavation be made or footing or foundation be constructed therefor until a permit authorizing the same shall have been issued by such enforcement officer.

In any case where a building or use requires site plan review, the building and zoning administrator shall refer the site plan to the planning board for review before issuing a building permit. The planning board shall within thirty days issue its report with recommendations in writing. The planning board's report and recommendations shall be deemed advisory only and shall not be binding either upon the zoning board of appeals or the building and zoning administrator. If the building and zoning administrator does not receive such report and recommendations within thirty days from the time the proposal is referred to the planning board, he shall assume that the site plan has been reviewed. The building and zoning administrator may require the payment of a fee in accordance with the schedule of fees as promulgated from time to time by the town board to cover the expenses of the planning board review, such fee to be in addition to the regular fee for issuance of a building permit.

In any case where a building or use requires a special use permit, no building permit shall be issued therefor unless such special use permit shall have been issued and shall be in effect.

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A building permit not exercised within six months of the date of issuance shall be deemed revoked, null and void, provided, however, that the building and zoning administrator may, upon good cause shown, extend the period of exercising such building permit an additional six months.

C. *Certificate of occupancy.* No land shall be used or occupied and no building or structure hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the building and zoning administrator.

Pending the issuance of a regular certificate of occupancy, a temporary certificate of occupancy may be issued for a period not to exceed six months. Temporary certificates of occupancy may be renewed for additional six months periods; such renewals shall not exceed a total of three in number. Such temporary certificates of occupancy shall be issued only in cases of emergency or hardship and only for the following purposes: Temporary use of a building or a trailer as a dwelling while a permanent dwelling is under construction or alteration or the use of an uncompleted dwelling under construction. A building shall be considered under construction and uncompleted until there is a complete exterior of a story other than a basement.

D. *Subdivision maps.* No real property shall be subdivided into three or more lots until a map of such subdivision, drawn to a scale as prescribed by the planning board, showing such lots and any streets laid out in connection therewith shall have been approved by the planning board of the Town of Guilderland and filed with the county clerk of the County of Albany.

E. *Application.* Application for any permit hereunder shall be made to the enforcement officer upon such form or forms and in such manner as he shall from time to time prescribe and upon the payment of such fee as shall from time to time be prescribed by the town board. (L.L. No. 3, 1979, § 4)

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Sec. IX. Zoning board of appeals.

A. *Organization.* There shall be a board of appeals consisting of seven members created pursuant to and having the powers and duties prescribed by section 267 of the Town Law as amended. The board of appeals may determine its own rules and procedure consistent with the provisions of section 267 of the Town Law.

B. *VariANCES.* Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Local Law, the board of appeals shall have the power, after public notice and hearing, to vary or modify the application of any of the regulations or provisions of this Local Law relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of this Local Law shall be observed, [the] public safety and welfare secured and substantial justice done. No variance shall be granted hereunder except upon the following findings made by the board of appeals, to wit:

- (1) That there are special circumstances or conditions applying to such land or buildings and not applying generally to land or buildings in the vicinity and under identical district classification which are of such a nature that strict application of the provisions of this Local Law would deprive the applicant of the reasonable use of such land or buildings or of privileges enjoyed by other properties in the vicinity and under identical district classification;
- (2) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board of appeals is the minimum variance that will accomplish this purpose;
- (3) That the granting of the variance is in harmony with the general purpose and intent of this Local Law and will not be injurious to the vicinity or otherwise detrimental to the public welfare;
- (4) That the variance shall be subject to such conditions as will assure that the adjustment thereby authorized

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shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which subject property is situated;

- (5) That the variance is not granted solely for reason of additional financial gain to the owner of the land or building involved.

C. *Special use permits.* The zoning board of appeals is hereby empowered to issue special use permits in accordance with the provisions of this Local Law. Whenever under any provision of this Local Law a use shall be conditioned upon approval of the planning board, no special use permit shall be issued until such planning board approval shall have been given and notice thereof in writing shall have been given to the zoning board of appeals. Any special use permit not exercised within one year from the date of its issuance shall be deemed revoked, null and void.

D. *Interpretation.* Upon appeal from a decision of the zoning administrator or upon any other proceeding properly before the zoning board of appeals, such board shall have the power to determine any question involving an interpretation of any provision of this Local Law, including the determination of the location of any zoning district boundary where such board finds that an uncertainty exists with respect thereto. Where any conflict or discrepancy appears between the zoning map and a description of a zoning district, such description shall control.

Sec. X. Amendments.

Every proposed amendment to this Local Law or the zoning map shall be referred by the town board to the town planning board which shall report its recommendations, together with its reasons therefor, to the town board prior to any final determination. The planning board shall submit its recommendations within thirty (30) days after such referral and, upon its failure to recommend within such period, the town board may act without such recommendation.

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Sec. XI. Miscellaneous.

A. *Interpretation.* In the interpretation and application of the provisions of this Local Law, such provisions shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience or the general welfare.

B. *Other statutes.* The ordinance entitled, "An Ordinance Establishing a Comprehensive Zoning Plan for the Town of Guilderland by Dividing the Unincorporated Area of the Town Into Various Districts and Prescribing Certain Regulations for each of Said Districts," adopted by the Town Board of the Town of Guilderland on December 17, 1953, together with all amendments thereto, is hereby superseded. No other ordinance, local law, order, rule, regulation, resolution or permit heretofore enacted or issued shall be deemed abrogated, annulled or repealed by any provision of this Local Law, provided, however, that where this Local Law imposes a greater restriction, its provisions shall control.

C. *Violations.* A violation of this Local Law is an offense punishable by a fine not exceeding \$50.00 or by imprisonment for a term of not more than fifteen days, or by both such fine and imprisonment. Each week's continued violation shall constitute a separate additional violation. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of any provision of this Local Law, the town acting by and through its proper officers, agents or employees may institute any appropriate action as provided in section 268 of the Town Law. Any person who violates any provision of this Local Law shall be subject to a civil penalty enforceable and collectible by the Town of Guilderland in the amount of \$50.00 for each such violation, said penalty to be recovered by the Town of Guilderland in a civil action. In addition to the foregoing, the enforcement officer may maintain an action for an injunction to restrain any violation of this Local Law as provided by subparagraph 2 of section 268 of the Town Law.

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D. *Validity.* In the event any section, subsection, paragraph, clause or other provision of this Local Law is or shall be held or adjudged invalid or unconstitutional, such invalidity shall not affect the validity of any other provision of this Local Law. In the event this Local Law shall be adjudged or held invalid in its entirety, the provisions heretofore existing under the aforesaid zoning ordinance of the Town of Guilderland adopted December 17, 1953, shall be applicable and shall remain in full force and effect.

E. *Effective date.* This Local Law shall take effect twenty days after its final adoption in accordance with the provisions of the Municipal Home Rule Law of the State of New York and other statutes in such case made and provided.

*Editor's note—Sub-Part 6 is derived from Local Law No. 2 of 1971, which was adopted on Sept. 14, 1971.